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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND  
RECONCILIATION COMMISSION HELD ON TUESDAY, 5<sup>TH</sup> JULY,  
2011 AT THE BUSIA COUNTY COUNCIL HALL**

**PRESENT**

<b>Tecla Wanjala Namachanja</b>	-	<b>The Acting Chair, Kenya</b>
Berhanu Dinka	-	Commissioner, Ethiopia
Gertrude Chawatama	-	Commissioner, Zambia
Margaret Shava	-	Commissioner, Kenya
Ahmed Farah	-	Commissioner, Kenya
Patricia Nyaundi	-	The Commission Secretary

*(The Commission commenced at 10.15 a.m.)*

*(Opening Prayers)*

**The Acting Chair** (Commissioner Namachanja): Good morning, and welcome to the last hearing of TJRC today in Busia.

*(The Acting Chair (Commissioner Namachanja) introduced herself  
and other TJRC Commissioners)*

I would like to welcome all of you. Today, we have three witnesses. I would like to check now if there is any counsel present. There is none! Are there any preliminary issues that this Commission needs to consider before we start the hearings? We seem not to have any.

I would like now to ask the hearing clerk to usher in our first witness. Before that, I would like to check our leader of evidence if there is anything.

**The Commission Secretary** (Ms. Nyaundi): There is a witness who have testified on 1<sup>st</sup> July, Mary Amadau. She has presented memoranda, as she had been requested by the Commission. I am praying that you admit it on to the record of the Commission.

**The Acting Chair** (Commissioner Namachanja): So, admitted.

*(Mr. Okodoi Maskini Odero took the oath)*

**The Commission Secretary** (Ms. Nyaundi): I ask for the record, you please, state your names, where you are staying and your current occupation.

**Mr. Okodoi Maskini Odero:** I am Okodoi Maskini Odero. I am the family spokesman of the family of Tito Oloo Adungosi. He is my cousin. I am with the mother to Tito Oloo Adungosi who has also accompanied us for this memorable occasion.

**The Commission Secretary** (Ms. Nyaundi): I have with me a copy of the memoranda dated 27<sup>th</sup> January, 2011, that you have presented to the Commission relating to the lives, death of Titus Adungosi. I wish now to invite you to present it to the Commission.

**Mr. Okodoi Maskini Odero:** Thank you very much. This is a submission of the memoranda to the TJRC; that is the matter of extra-judicial killing. It touches on Titus Oloo Adungosi. We see him as a martyr for the second liberation. To me, he is the father of the second Republic.

**The Acting Chair** (Commissioner Namachanja): I do not think I heard the right interpretation of the word martyr. Is that word not correctly interpreted into Kiswahili? How is that pronounced, Leader of Evidence? *Matyr sio shahidi*. I insist we first get the correct interpretation of the word martyr. Leader of Evidence, can you help us here.

**Commissioner Farah:** The correct interpretation of the word martyr in Swahili shahidi.

**The Acting Chair** (Commissioner Namachanja): I thought I heard shahidi as in mashahidi. So, we have it right now.

Continue, please.

**Mr. Okodoi Maskini Odero:** Let me give an introduction of the memorandum. The following is a story of a young man who was Kenya's trouble maker, who right from his childhood learnt to avoid excuses because he considered this as a snail used to build the house of failure; a man who took responsibility where necessary, a man so daring as the honey harvester is, who is prepared to be stung by bees, as to finally walk home with honey, which is in another words a just society. It is a story of a man who was guided by the modern principles of engagement in a quest for better for results, a man whose individual principles affected the entire community, a man with an iron will, and refined mind, a man from a humble background and a man who paid for his ideals with his own life. Through him, we want to see his family compensated. We want the truth about the cause of his death. His name is immortalized as a Kenyan national hero, a martyr of the second deliberations and father of second Republic. I am talking about Tito Oloo Adungosi. Just to pay a tribute. Tito Oloo Adungosi, latest unsung hero, simple, bright and principled, University of Nairobi student leader, a leader par excellence, rest in peace.

The following is a biography of Tito Oloo---

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Mr. Maskini. There is a memoranda that you have given the Commission. Would you like these memoranda to be admitted by the Commission?

**Mr. Okodoi Maskini Odera:** Yes, I do.

**The Commission Secretary** (Ms. Nyaundi): Chair, I pray that we admit this on the record of the Commission.

Now that we have recorded the memoranda, I would ask that you, please, summarize, and you do not need to read it as you have presented us. The commissioners will have an opportunity to read it. So, I will pray that, probably, you pick the highlights on your memoranda. I appreciate your co-operation.

The memoranda are admitted.

**Mr. Okodoi Maskini Odera:** Thank you very much, Commissioners. So, I will not read it word by word. However, I still do not want to leave out important details. Whenever it comes to history, we have to mention every date as it is. Let me proceed.

The man we are talking about is Titos Oloo Adongusi. He was born on 23<sup>rd</sup> June, 1956 as the seventh child of Marunsiana Nyambola and Longenes Atomosi from Chakol village, Chakol Division, Amangura Location. So, he joins school at Chakol Boys Primary School, which was by then known as Chakol Intermediate at the age of 10, and sat for his CPE in 1972. In 1973, he joined Butula Secondary School in Form One, and notably he joined the school bare footed. We are told that he was a member of Lumumba Dormitory, and also Infamarian Prefect. Due to his exemplary performance, his teacher, the later father Mackmahon, commended his command in English and bought him the first pair of shoes in Form Two. He exhibited his leadership skills right from college.

As a student in Butula and as a prefect, we are told that he was so strict. It is said that he never made noise in class and teachers described his behaviour as extreme and too notorious. So, in school, he was disciplinarian number one, very intelligent and calm. He had a natural talent to handle even most delicate issues. He left Butula and joined Agoro Sare High School in South Nyanza. In this school, he was also picked as a leader. He finished school in 1978. In 1979, he joined St. Monica Chakol Girl's High School as a teacher teaching English and Kiswahili. The headmistress described him as an exemplary and dedicated teacher. He joined the University of Nairobi in 1979 to pursue a degree course in the Faculty of Architecture, Design and Development.

In 1981, University of Nairobi students went on rampage. On 6<sup>th</sup> August, 1981, after the university strike, he was recalled, and whenever he was in the university, he wrote home frequently. He became of the Chairman of Student Organization of University of Nairobi (SONU) in April, 1982. During his campaigns, he said his driving force was the rot in the society and he advocated for change. Indeed, he always seized any available opportunity to advocate for change.

On 15<sup>th</sup> December, 1979, when he was at home, his father convened a family meeting and called all his children to partition his land. His brothers were Sorony Metian, Francis

Omadede, Cosmas Oworet, Letsek, Ekumalan Fredick and Titus. He seized the opportunity to tell them and allow me to quote:-.

“When I grow up, I want to be in a society that is just. This must first start with my family. I would ensure that we are united and that is how we can prosper as a family. My polygamous dad, Adungusi, my loving, mum, Kalasina, and Maria, should be united. My sisters, you should be united as we brothers are.”

Those words were the glue that bound the family together. I have mentioned about Adungusi Oloo. He had three wives and because I have already forwarded my memoranda, I would mention the details. But his first wife was Marsiana Nyabola who is here, and they had eight children, and Titus was the seventh born. The second wife was Kalasina Mukada and they had six children. The third wife was Maria and they had six children.

Allow me to express this Motion, with this larger family and the unifying factor that was Tito, after his demise, there were lots of problems. Now Chakol where Tito was born is known --- Chakol means the place of the sun. Now, I heard the Iteso had the opportunity to bask in the glory of that sun during that period of Moi’s rule.

**The Acting Chair** (Commissioner Namachanja): Sorry, Sir. I did not get the correct translation of the meaning of word Chakol. Please, if you could repeat?

**Mr. Okodoi Maskini Odera:** It means the place of the sun. It means that the Iteso were basking in the glory of this sun. This sun translated in the eyes of Tito. They had a lot of expectations but that sun was forced to set at noon.

In my introduction, I talked of Tito as the matyr and a father of second liberation. This is what I want to express. Tito is a national hero, the Iteso unsung hero, the body fabric----

If you look at the progressive intelligence, all the warriors of the first Republic and the revolutionary reformers, then let me ask you, where do you place Tito whose blood watered the tree of democracy in this country? According to the family, we look at the Tito as falling in a special category of citizens; those that initiate difficult actions, that does not fear any change that sweep away the status quo, those that go with the current. Tito was a tough minded leader who has created events which led to desirable changes.

It is true that he was not a coward. He always remained steadfast. Let me remind you this bit even after the attempted coup, Tito did not visit his home or seek political asylum. He stayed and we thought it was because of fear of arrest, but he said it is because of solidarity with the slain and arrested university students.

Let us look at the events of abortive coup of 1982. On 1<sup>st</sup> August, 1982, at 3.00 a.m., the Kenya Air Force men tried to overthrow the Government and some of them flew to Tanzania. But Tito remained. According to the *Daily Nation* of 11<sup>th</sup> August, 1982, the students stayed away from the campuses and some died. His family was so much

frightened because they did not know the whereabouts of Tito. On 4<sup>th</sup> August, 1982, one of the cousins of Tito who they were studying with known Nicholas Kuria who was also a Bachelor of Education student at the same university said that he had not spotted Tito. Another person was the late Patrick Baraza. He said Tito was residing in some place in the city. In the follow up of events, the policemen descended the home and started arresting people. The first one was Francis Omadede who was Tito's follower. The second was Nicholas Kuria, who were picked and taken in a convey of police Land Rovers. They slept in Adongosi Police Station and then transferred to Busia Police Station where they were tortured badly for one night and up to today, Oporia is very unwilling to even comment on the traumatizing experience. The third one on 12<sup>th</sup> August, was Sobario Odongo, another cousin of Tito, who was picked and interrogated. This was now the beginning or the perpetuation of intimidation. A police road block was erected on 13<sup>th</sup> August, 1982, and the purposes were, as I have said, to intimidate the whole village. They promised to trace anybody who had Titos photograph, and today as we are talking, we do not have any photograph of Tito. The only photograph that we have is copy from the *Daily Nation*.

On 20<sup>th</sup> August, the village received the first casualty of the abortive coup in the name of Anthony Oganyo. On this day, 20<sup>th</sup> August, his body arrived home and they ordered us to bury his remains in the same day. They arrived at noon, and by 2.00 p.m., the grave was dug and he was buried. Up to today, even the mother will confess, the mother to Oganyo Anthony never greets this lady, because she said that because of the death of his son was through her son Tito.

Now let us get to the jail sentence. There was an excerpt from the newspapers. After the arrest of Tito, no family member was represented. Nobody knew what was going on. We only read from the papers that Tito and the headline read: Student leader gets 10 years.

Please, allow me for the interest of the public to go through the exchanges, an excerpt between Deputy Director of Public Prosecution, Mr. Sharad Rau, SONU Chairman, Titus Adongosi, and the Chief Magistrate, Abdul Rauf. They proved Tito guilty through these words: "Rauf: acts are sufficient to show that Adungosi took part in a demonstration to excite disaffection to the Government----

**The Acting Chair** (Commissioner Namachanja): Could we get the translation right. Could you read that again? Please, repeat so that we get the right translation for Kiswahili.

**Mr. Okodoi Maskini Odero:** These are the words of Rauf: "Facts are sufficient to show that Adungosi did take part in demonstration to excite disaffection to the Government". As Adungosi has accepted the offence in his favour, he made a full statement about his movement and has been co-operating with the police. He is a first offender"

During the consequent visits of the family to Tito, we asked Tito whether it is true he admitted. But what Tito said is that he was put in a chamber, forced to sign this report after through beating. That is what led him in mitigation to say:-

“In my position as SONU Chairman, I had to do what I did on that day. I tried to ensure that students were safe although I could not keep safety for others. That is all I can say”. The court was adjourned.

Then Rauf came up and I quote: “The court had seen a long statement by Adungosi and the statement revealed that crime had been committed in the highest institution of learning. Although the student is the first offender, he has shown no remorse in the committing of the offence, and we are told that Titus was as composed as possible”. Then Titus was convicted to a jail term of 10 years.

Now let us look at life in prison. It is true that Titus never regretted being in prison, but through his letters-----

He envied free people. He was a very true and faithful Christian and his faith was rekindled in prison. I have some annexures of these letters in the memorandum but I want to quote a proof on one of his letters dated 7<sup>th</sup> November, 1980. This was a letter to his brother, Cosmas. He said:-

“Do you still keep the word of our Lord, Jesus Christ? As for me, I still love Jesus Christ. I do not mind what the world says. If one loves Jesus, he has to demonstrate in his life this love; always read the Bible and never, ever break God’s commandments. Do not shame Jesus.”

This is a letter of 1980 before he was in prison because I will consequently prove to you that he carried the same faith even in prison just like outside. It further says:-

“Tell papa that Tito says that when he comes back, he will teach him all about Jesus. Tell him I thank God because he is a drunkard. In Romans 8:28, God says that all things work together for good to those who love God and to those who are called according to his purpose. My brother, try to love everybody. Do not own pride and do not leave the word of Jesus.”

This letter was received on 27<sup>th</sup> November, 1980. While in prison, he carried the same message because Tito is the man who did what he believed in. A very short quotation from one of the letters to Francis Adungosi’s brother on 28<sup>th</sup> April, 1985 says:-

“I thank God, who created the Heaven and the earth; who cares for us and who loves us dearly that when I was yet a rebel and a sinner, took pity on me and saved me. What a joy I now have in my heart because of my salvation. This joy is in the heart where the Lord now dwells. I have been made new.”

He quoted 2 Corinthians 5:17 and said:-

“What I tell you, Francis, is to declare Jesus Christ as your saviuor and Lord. Make your choice and you know the one you must choose. I have chosen him and I have

no regrets. I want you to be patient with me because we have some details that I am forced to go through.”

I mentioned that Tito grew up in a polygamous family and, single handedly, he united his brothers and sisters. He assumed the role of advisor and everybody saw in him a rising star, a darling of the family and the promise of the community. In the polygamous family of Adungosi’s father, there were no feuds or quarrels experienced in other families. Even when Tito was in prison, he still used to solve disputes back home because his word was very respected. For example, he warned his younger brother, Titus, by quoting from Proverbs 5. He said:- “Avoid our father’s mistakes – wine and women. You know father is a brilliant man, but beer ruined him. You know women ruin and betray a man; Francis, stick to your wife. Let her delight you always; stay away from prostitutes; stay away from divorcees, confused young women and all such traps. Instead, stick to the Lord. Do not be ashamed of him and always try to find out what pleases him.”

My people, today, even after that advice, without fear of contradiction, Francis has lost count of his women. They are about seven now – those who are known and unknown children – and one of his women delivered twins today. We even told him to accompany us here to witness this but had to escort his wife because she was delivering. Tito went to drink.

**The Acting Chair** (Commissioner Namachanja): Sorry. Correct that. Is it Tito who went to drink or Francis? Who went to drink?

**Mr. Okodoi Maskini Odera:** It was not Tito but Francis, his brother.

**The Acting Chair** (Commissioner Namachanja): Okay.

**Mr. Okodoi Maskini Odera:** Francis, his brother; the one I said lost count of his women and concubines.

**The Acting Chair** (Commissioner Namachanja): Okay.

**Mr. Okodoi Maskini Odera:** Let me move to some page, because you have the memoranda.

Let me now move to the death of Tito. When his father, Longinos Adungosi, built his new grass thatched house, during the inauguration in the presence of his children namely Akumu, Consolata, Eseki, Frederick Lagamu and the late Ernest Waret and his two wives, including Marisiana, he said:-

“When I die, you, children, will take me to Marsiana’s home for two to three days, as custom requires and then, return and bury me next to Kalasina Sior” – that was the late wife’s grave place – make sure all my children see my corpse and mourn before burial. Illagamu or Frederick will be responsible for weeding around the graveyard.”



These words traumatized the old man after the death of Tito. Tradition requires that after three days, somebody be viewed for that period. But when Tito died, his body arrived in the morning and he was buried almost the same time and there was no viewing. They did not even tell the family about Tito's death. There was a caption in the *Nation* newspaper and then it is brothers, Cosmas and Frederick, who saw this caption and learned that Tito was dead. This is the case and yet, in this caption, we have the Acting Commissioner of Prisons, Mr. James Mareka, who said that Tito died of intestinal obstruction and that the family had been notified through Mr. Simon Chacha, the Busia District Commissioner. That was not true. Here, he alleges that nobody has come to claim the body of Tito. How could you know that Tito was dead? He talked about Tito having died on Tuesday and, according to these dates, that was on Saturday. But Tito was transferred from Naivasha Hospital to Kenyatta National Hospital on 13<sup>th</sup> December, 1988, while in very critical condition. How come he says that Tito died a week--- We are told that he died about ten days earlier. Because a lot is in the memorandum, let me just mention the people who went to pick his body. They were Cosmas - his brother, Oroni, who is here, Pascal and Raimondo. It was not easy even to pick that body because they had to go to the DC, Simon Chacha, who was very adamant to give a permit for the fundraising for the collection of the body. During the burial, it was not easy to get even a priest to preside over the function. However, the Catholic Priest who forced himself – Father Benjamin Munialo – and the altar boy, who I can remember is now a priest, Father Erugo Saverios, accepted to conduct that service. However, photography was not allowed and the one who took some of the photographs, which I have included in the memorandum, did it secretly.

Now, excuse me.

The chief of that area instead of bringing news that Tito was dead, said: “Your son is dead but let nobody speculate the cause of his death. I do not want to hear anybody talk about it.”

The name of the chief was Erasmus Samudek.

Let me give you how the mood was that day. It was on 8<sup>th</sup> January, 1989 and there was a ring round the sun. The only time we saw that was in 1978 during the death of Pope John Paul I and in 1994 when Jaramogi Oginga Odinga died. In my introduction, I said that Chakol is the place of the sun and we saw that sun clouded by the rain during that burial day. That was the day darkness descended into the Adungosi Family. His father was very surprised that his beloved son did not sleep in any of the houses after a long stay outside since August, 1981. As required by tradition, as I have mentioned earlier on, Tito's body was not viewed and that was traumatizing. He came home poorer than he left for campus. This was the day of inheritance for the family; this was the day of darkness and darkness loomed and the spirit of poverty was seen descending. Everything was falling apart as his disintegrating body parts. If you remind this mama today, she will tell you that Tito's coffin was brought when it had been riveted permanently. We could not even know whether that was Tito's body because we did not see the body! The mama has the

cardigan he was putting on when he was arrested and that is the only thing that they brought home that day from prison. That is what the mother remembers Tito with.

During this burial, let me mention some details. There were two bottles; one was Tarino and the other one was Mirinda. They plucked some red coloured flowers. These are the only colours that decorated his coffin. It was evident that darkness had descended onto the family. His brother, Cosmas Wareti, went to the market and sold two chicken to buy the “Doom” brand of insecticide and Marisiana confessed that, that was the first day she used an insecticide spray in her life. I am telling you, there was nothing good in the family. There was nothing bright; there was no eulogy that day; there was no Government representative apart from the Special Branch officers. They did not allow any pavilion to be built. There was no epitaph; there was no post-mortem to establish the cause of his death and the only thing that was there was the family.

Let me give you the reason why we say it is a great loss. If you look at this polygamous family - and if you want, you can refer to that memorandum on page three – you will find that the first wife with eight children, only Tito Adungosi finished secondary education and proceeded to university. Francis Madede finished Form VI. He remarkably jumped from Form II to Form IV and he still managed to go through. In the second wife’s family, there is only one child who finished Form IV. In the third wife’s family, there is only one child who finished Form VI and it is through the efforts of Tito Adungosi that Cosmas and Warete were able to finish school, because he wrote in the papers an appeal for assistance because of poverty. At that time, he was teaching at St. Monica, Chakol Girls. Any assistance that came from the well-wisher namely N. N. Xavier, a Dutchman, was documented. Because this is an inclusion, I will give the Leader of Evidence a photocopy of it. It is very detailed because it includes the cheque number, the currency, the date of reception and the amount. For example, on 2<sup>nd</sup> March, there was Cheque No.2103 of 300 Dutch Florin at the then prevailing exchange rate of Kshs1,070. After Warete finished his college, that *mzungu* came and visited the family and gave a total of US\$360 at the exchange rate of Kshs54.20. That was an equivalent of Kshs3,252 and 200 Dutch Florin, equivalent to Kshs5,398. He also left Warete a camera. That was all.

I was just trying to build the thesis on the instrumental role Tito played in the family. After his demise, nothing else was forthcoming. Let me assure you that Tito was very promising because he was an eye that saw tomorrow. During that period – it was a period we called “wakati wa rekodi za santuri in 1980s – but Tito was the first man to buy a radio cassette player Serial Number 344173 RX 3402, Receipt No.18729, Permit No.A673516. He was a man who always paid tax when there was an option of smuggling from Uganda because he followed the law to the latter.

I am almost through and so be patient.

As a family, we firmly believe that Tito was killed because we have evidence that shows and proves this fact. Let me quote an authority from one who shared a room with Tito; his friend and cellmate at Kamiti. He says:-

“Adungosi was tortured to death in a crime he did not commit. His lungs were punctured at Nyayo Torture Chambers, but he received no medical attention until he succumbed to his injuries. He did not deserve to die for he had done nothing wrong.”

These are the words of the Right hon. Prime Minister, Raila Odinga, in an address to a delegation of the National Victims and Survivors Network at his Karen Home on 27<sup>th</sup> July, 2010, and in attendance were hon. Gitobu Imanyara, hon. James Orengo, hon. Ida Odinga and 40 survivors, victims and victims’ representatives. This is a network in which I am the National Secretary. On 2<sup>nd</sup> June, the Right hon. Prime Minister paid a private visit to the same family and met with Tito’s mother and he repeated the same words. I have photographs here which were taken that day which I will forward for documentation.

Secondly, I want to quote the second authority, who is Hussein Mulai Alusa, who was in jail with Tito Adungosi. He observes:-

“The Kenyatta Regime was not so keen on hanging criminals. It is the Moi Regime that exploited execution law. Moi came in with a bang, authorizing the execution of 14 people in 1978. Ochuka, who attempted to overthrow Moi’s rule was convicted with four others in May, 1987, the last execution in post-colonial era. However, so many were killed in custody, including Tito Adungosi.”

Let me take you to these events; events to watch and which may also have contributed to the killing of Tito. In 1985, you remember that President Obote was toppled by military forces under Basilio Olara Okello. On 26<sup>th</sup> January, 1986, Yoweri Museveni’s National Resistance Army (NRA) toppled Tito Okello’s military government. On 14<sup>th</sup> December, 1987, about 100 NRA soldiers of Museveni crossed into Kenya via Sofia – Sofia is about 200 meters from where we are seated while Marachi is 200 meters down here – in an attempt to strategize a war with Kenya. On 16<sup>th</sup> December, 1987, police forces opened fire at Adungosi Police Station in a bid to repulse the Ugandan forces who were alleged to have crossed into Kenya through Amongura – that is the border point about four kilometers from Adungosi’s village, although I indicated six kilometers here, there was hullabaloo, families fled and in that fracas, an uncle to Tito, Christopher Adungo, was one of those who was shot in the chest and was admitted to Busia District Hospital and later transferred to Kisumu. On 28<sup>th</sup> December, 1987, President Moi and President Museveni met at Malaba Border to solve the border dispute. I was part of the team that received him. We were in a choir that received him – the Chakol Choir – and I can remember the song.

*(Mr. Odera sang a song)*

That was the song. The people who came were very many and part of this choir, most of them were family members to Tito. We thought that if we praise him and do whatever, Tito might be released. Ah, it was not so!

Let me also remind you that after giving that chronology of events, it is also true that Titus indicated that he had been accorded remission of three years and that meant that he would be released in 1989 instead of 1992. He confirmed that to us through the letters he wrote on 1<sup>st</sup> October, 1986. He was very optimistic on 4<sup>th</sup> April, 1987, that he would be released.

After giving you that chronology of events, it is also true that Titus indicated that he had been accorded remission of three years. That meant that he would be released in 1989 instead of 1992. He confirmed that to us through the letters he wrote on 1<sup>st</sup> October, 1986. He was also optimistic that on 4<sup>th</sup> April, 1987, he would be released. Was Tito, therefore, killed because of the geographical location? We had a Special Branch Officer who was assigned to that family. He is from Kaliwa Village, Amukura Division. He is known as Nikasio Edodo.

That officer, after the capture of Tito, was sacked and it is said that he was collaborating with the family. Nikasio always thought that, that was the confidential report he gave that the Government thought that if Tito was released, he was likely to join Uganda Forces. Remember, that is exactly the time we had the February 18<sup>th</sup> Movement of Brigadier Odongo. Therefore, it was suicidal for the Government to release Tito. Could it be that somebody feared Tito being alive at a time of political upheavals between Kenya and Uganda? Remember, that was at a time when we had agitation for multi-partysm in Kenya.

On the other hand, this is purely speculation because the Iteso have never had a coarse relationship with their Luhya neighbours in Busia. Was Philip Masinde's continued ridicule of the Iteso Community an indicator of a scheme to silence Tito? After all, he said in one of his rallies when he was addressing university students that Tito's death was a lesson for the Iteso.

We had an ardent crusader for the release of Tito; that is, the local MP for Busia North Constituency, hon. Achiya Echakara. Why did he narrowly survive death at the hands of gangsters on 15<sup>th</sup> January, 1987? A week later, he was involved in a controversial death when there were boundary disputes. These are people who died almost the same time. Why did they deserve to die? As a family, we are pleading that the TJRC becomes the sun that sheds light on whatever transpired.

At the beginning I said that Tito was very principled. Tito was not a man who would just go with the current. He always sought dialogue and I can prove it. According to the *Daily Nation* of Thursday, 29<sup>th</sup> July, 1982, Tito Adungosi as SONU Chairman said:-

“At that time Mr. Kamotho had frustrated the students by declining to give them audience creating the scenario of confrontation between the Minister and the students. Confrontation would be the solution.”

Tito said:-

“The Minister is engaging us in a psychological war and we are ready to fight it. He must come here and talk to us. If he fears to do so, we shall march to his office.”

You all know how powerful Kamotho was then. The *coup d'état* was to happen a week later. How would one not implicate Tito after this confrontation?

There is so much that can be said about Tito but the truth is that he is dead and he left many problems. The whole community was stigmatized because he confessed that he had been tortured a lot. He was imprisoned even before being sentenced. The whole community was victimized. After the arrest of Tito, all the Iteso used to vote as a block for the KANU regime in expectation of the release of Tito. After his death, we lost hope as a community and we introduced politics of Opposition in Iteso. To date, the Iteso votes with the Opposition and particularly, with Raila Odinga who was jailed together with Tito.

I have expectations from this Commission. We have written memoranda, but I do not want to read the text. When Ojamaa Ojaamong, a former MP and father to the current MP was involved in a controversial death in Nairobi, it is true that we lost. If you go to Lang'ata Women Prison, you will find that the road to the prison is named Ojamaa Ojaamong.

The Community requests that we have to be recognized. After the marginalization we went through because of Tito Adungosi, we want this community to have a tarmac road in Teso District and if possible, it be named after Tito Adungosi. Secondly, and the mother always talks about it, we need something monumental about Tito. This monument has to be built at the county headquarters as a reminder of Tito's struggle, his blood and martyrdom.

You all know that he died at his higher seat of learning. In the whole of Teso District, we do not have an institution of higher learning. Recently, we were given a campus at Alupe. We want this campus to be a fully fledged university and why not name it after Tito Adungosi?

We want Tito to be immortalized as a national hero. This is because it is as a result of his blood that we have the democratic space that we enjoy. As we celebrate the Kenyattas, Kagias and Onegos of this country, let us also celebrate Tito Adungosi as a national hero.

I mentioned particular dates when they erected roadblocks to intimidate the Iteso and especially, to stigmatize the Adungosi family. A roadblock was erected just 100 metres to Adungosi's home and I understand that is where the police station is. The father who sold the land to the Government for the construction of a police station is Oloo Adungosi but the same police have come again to intimidate the family. Please, let that road block be removed and moved to the border because it has also become a corruption point. Let it be removed.

If you get into the records of Adungosi Police Station, you will find that the crimes recorded there are petty offences of chang'aa peddling, *kuendesha baisikeli bila tochi* and so on. Though it is at the border point and the area is very porous, the crime rate is too low because we do not have gun thuggery there. Most of the incidents are being perpetuated by the police. We have cases where police dogs trace robbers in the police station. This happened when a man was killed at some point and the case was suppressed by the same police.

We need an apology to the family. There is no harm if this old lady gets some stipend to sustain her in old age. Let her tears be wiped. After all, very many lives have been destroyed because they have lacked education.

Why can we not recommend a law that will ensure that leaders are accountable for their actions? You know Philip Masinde may be innocent, for example, but the verbal diarrhoea like that of Okondo and Alexander Muge--- There must be some iota of truth before somebody says something. Maybe, you should investigate that. We have legal officers here. After the recommendations of this Commission, the purpose of prison life is corrective and not--- If you kill somebody, the dead do not learn any lesson. Those we call rebels today are tomorrow's heroes. Pump sense into those in authority today.

Thank you.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Mr. Maskini. You have spoken very eloquently. I want to ask Mama Marsiana a question. Can we continue or you would like to stretch a bit first?

**Mrs. Marsiana:** I will take some rest first.

**The Commission Secretary** (Ms. Nyaundi): Thank you. I will ask Mr. Maskini some questions and then we will allow you to talk.

*(Members of the Adungosi family introduced themselves to the Commission)*

**The Commission Secretary** (Ms. Nyaundi): In addition to the memo, you referred to a newspaper article which you said is through which the family learnt about the death of Tito. You have also shown us photographs of the Prime Minister's visit to the home. Can we admit this on the record of the Commission?

**Mr. Okodoi Maskini Odera:** I do with your permission.

**The Acting Chair** (Commissioner Namachanja): They are so admitted.

**The Commission Secretary** (Ms. Nyaundi): What course was Tito admitted to take at the university?

**Mr. Okodoi Maskini Odera:** He was taking Architecture, Design and Development.

**The Commission Secretary** (Ms. Nyaundi): Are you saying that the current state of poverty in Titus' family is linked to the death of Titus?

**Mr. Okodoi Maskini Odera:** That is not something to ask because it is very obvious. The young man you see here is the one supporting the family. If you look at the brother to Titus, you will find that this is his wife but he is very useless and we are not sorry about it. He is a drunkard. He is without a job, he has ten children and this is the first born and the only one depended upon in the family. The situation is pathetic.

**The Commission Secretary** (Ms. Nyaundi): Did I also understand you to state the only news you have as the cause of death was what the Commissioner of Prisons stated and that as a family, you have not received a post-mortem or medical records from KNH or any of the prisons he was held in?

**Mr. Okodoi Maskini Odera:** If you looked at what Mareka said, you will find that Titus died on Tuesday but the family did not go to collect the body. At the same time, he says that they have passed information to the DC but we did not get any word. The first rumour was Radio from Africa, a Tanzania Radio Station. People heard about it, but that was considered as rumour but it was the family members who confirmed through this statement. They wrote as if it was nothing because the caption is the size of your finger!

**The Commission Secretary** (Ms. Nyaundi): You said that the father was troubled that cultural rites for Titus, especially the three days, were not observed at the home. Are you familiar with Iteso customs? What would happen in those three days? What did the family miss? What would this mean for the family; that is having not observed those cultural rites?

**Mr. Okodoi Maskini Odera:** The first day is dedicated to invitation and preparations. There is also wailing. The first and second day is when tension is released. That is where you can come to terms with the reality that death has occurred. We have burial rites on the third day. Death has occurred and so, we bury the dead. There is also feasting. Before the feasting, a fire is lit in that period of three days. That is where they solve the family's problems. If there is wealth to be shared or a dispute to be solved or anything progressive for the family, that is the time it is discussed. Anything deliberated around that fire place, for example, the family would have revisited Tito's letters and advised Francis' brother by asking: "Do you remember what Tito wrote about you? Now he is dead. So, please, follow that." That did not happen and we cannot blame anybody for whatever has befallen these two people.

**The Commission Secretary** (Ms. Nyaundi): You talked about a road block that has been put near the home. Is there alternative access to the family home apart from that road block?

**Mr. Okodoi Maskini Odero:** As I said, the road block is about 150 metres away from the family's home and an alternative official route accessible by car is a kilometre away. Why do they have the road block there and yet the homestead is a stone throw away? I may not be versed with security matters but this road that is one kilometre away is used by vehicles and all smuggling from Sudan is done via this alternative route to Uganda. If it is for security reasons, why can we not erect the road block at the junction of these roads? From the very inception of this road block, we read something sinister.

Again, the road block blocks a whole location as if the people there are not part of Kenya. People have to pay taxes that are not receipted so as to cross to the other side. It has also marginalized that section of the village because you cannot operate a shop beyond that road block.

**The Commission Secretary (Ms. Nyaundi):** You spoke a lot about other people's interaction with Titus. You spoke about your own involvement in 1987 when you sang a song for the President. Did you interact with Titus at a personal level yourself?

**Mr. Okodoi Maskini Odero:** As children, we interacted and the last time was in 1980. There was nothing of substance and the sister is my mother. Like in one of the letters he wrote from Nairobi, he would send one of the cousins to our family to tell us that his chicken should be picked because he was about to come home. That was the kind of relationship we had.

**The Commission Secretary (Ms. Nyaundi):** How old were you in 1980?

**Mr. Okodoi Maskini Odero:** From 1971 to 1980, if you can do the calculation---

**The Commission Secretary (Ms. Nyaundi):** The way you talk about Titus is almost like you walked with him every step. Did Titus affect so many lives including your own life, although the last time you met you were only nine years old? Do you mean his impression on your life was that powerful?

**Mr. Okodoi Maskini Odero:** Thank you. Titus was an admiration of every growing up girl and he was a friend to almost everybody. There was no age difference between me and Titus. But when I learnt of what had befallen him, that bond grew so much and we became more of equals. Whatever information that came from the university or the prison, was shared by everybody.

In this memorandum, we have not mentioned about the extended family. For example, how he would have helped us, we were also expecting something from him. For example, in my family, I have finished university and I would have wanted to advance; but I may be the only one! If Titus was alive, he could be among some of these latest leaders, the likes of Mwandawiro Mganga and Isaac Ruto. Do they have such problems in their immediate families like we do have? It may be different. We have seen so many of these people get into politics and it has improved the lives of their communities and so on. Do you think there was anybody who could have challenged Titus? That is how we lost as a



family and we are talking as a family. But, as I said, that bonding--- I was in the choir that received Moi; I did not mention that I was also in the choir that was in his burial. If you look at the annexure here in one of the photographs; you will find that at page 15 of the memorandum. In the last photograph, we have a picture of mama Marisiana, seated without that staunch. She did not shed any tears and in the choir, there was one song that was very consoling.

*(Mr. Okodoi Maskini went into singing)*

Please, listen to our prayers and look at our problems. That song was sung during the petitions, when there was a prayer offered for the faithful. You can see the rest were standing but this mum was seated traumatized. It is like I walked with Titus in the process of our growing up to death; and all our aspirations were shattered.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Mr. Okodoi. At least, I would want you to know that, at an individual level, I feel that this morning, you have done justice to the memory of Titus and you have really shared the story; that is my impression at personal level. I want to get direction from the Chair.

When Mr. Okodoi was talking, he mentioned about his brother who is in this room and who went to Nairobi to bring the body home. Then there is Titus' mother who is here.

The direction I seek is whether I can invite them now before you ask Mr. Okodoi questions or you should ask Mr. Okodoi questions and then I interview his mother and the brother later.

**The Acting Chair** (Commissioner Namachanja): Leader of evidence, you can invite them all first; then at the end, we shall ask them questions.

**The Commission Secretary** (Ms. Nyaundi): I, therefore, wish to ask Mr. Okodoi's brother to come and take the place that Mr. Okodoi has now.

*(The Witness (Mr. Yoronim Etyang) took the oath)*

**The Commission Secretary** (Ms. Nyaundi): Thank you so much. Please, state your names for record purposes.

**Mr. Yoronim Etyang:** My names are Yoronim Etyang. I am a son to Longoisi Adungosi who is also the father of Titus.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much. You will just wait to be asked questions. Where do you live at the moment?

**Mr. Yoronim Etyang:** This time I am living at Aromodoi.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much. You have been here today when Maskini Okodoi was speaking. Is that the case?

**Mr. Yoronim Etyang:** Yes. I have heard everything.

**The Commission Secretary** (Ms. Nyaundi): Did you hear him explain that you and the others were together when you received a report that Titus had died and you went to Nairobi?

**Mr. Yoronim Etyang:** It is true, we went to Nairobi.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much. At this particular moment, I would like you to tell us and briefly explain where you went to when you went to Nairobi and what you found out, until when you came back home with the body of Titus.

**Mr. Yoronim Etyang:** I was the leader of the group that went to Nairobi. We had no public means then; I asked an Arabian man to assist us with his vehicle; a Sundown, and he also contributed some money for us. The District Commissioner, Mr. Chacha, gave me a permit to allow us raise some money from people so that we could get money for travelling. I just made a coffin here and later, we managed to go to Naivasha where Titus was. But I was informed that he had been taken to Nairobi where he later died. Lastly, we searched for his body and it was a bit hard to get the body. There were policemen who were beating me at the door as they were asking me how I was related to the deceased.

Lastly, I inquired from the Commander of Kamiti Maximum Prison where Titus was; then later, I got an officer who was a Teso who is now dead. He is the one who led us to every door. Finally, I asked where the documents were and I said; “even God has tag which can be tied.” That evening, we were informed that his body was at the City Mortuary.

**The Commission Secretary** (Ms. Nyaundi): Thank you so much. We would like to understand, because we have been told that when the body was brought back home, the people did not get an opportunity to open the coffin. That is why we want to understand, when you went to the City Mortuary, were you in a position to understand that, that was the body of Titus?

**Mr. Yoronim Etyang:** It was a bit hard to identify the body because at that time, it was not a human being's body that you could identify easily. You understand that those people, the caretakers who were working at the mortuary were threatening those who went there. You had to bribe them; maybe, they were to ask for something. I tried to identify his body until I brought it home. The big problem was the road blocks that we went through on our way home.

**The Commission Secretary (Ms. Nyaundi):** We will come back to the road blocks. So, you can confirm to us that, at least, you put the body into the coffin that you had from home and, that is the body you buried?

**Mr. Yoronim Etyang:** We were four people; my father, my step father and my step brother who is now dead. You have heard about the late Cosmas; and I am the only one surviving. We took him and placed the body into the coffin and we tried to travel and we reached here at 2.00 a.m. After staying at the road blocks for so long, we tried as much as we could to reach home. It was very cold and my mother who is here fainted. I went to the house to sleep.

Later in the morning, we went to look for the mutual tickets, and then we brought them to Adiri at around 2.00 p.m. We got that the preparation for burial was in the process and my father had fainted as well as my mother, and even Cosmas. We went to the church to look for the pastor from the Jakol Mission to come and conduct the service and he agreed to meet the consequences. None of the administration officials was there.

**The Commission Secretary (Ms. Nyaundi):** Thank you very much. When Mr. Okodoi Maskini was talking, he really explained in details how the death of Titus left a gap in the immediate family; the extended family members and the community of Teso as a whole. I do not know if there is anything that you would like to add as his elder brother.

**Mr. Yoronim Etyang:** I can add something because we have really suffered a lot supporting this mama here and also my wife here. I can only ask if you can help us develop in life because our family has now gone apart. You can see my mother and father are growing old and my health is not good. I have a big family at home and there is no way we can earn our daily bread. I was sacked from the Kenya Medical Research Institute (KEMRI), Kisumu because of Titus. I have finished what I had to say.

**The Commission Secretary (Ms. Nyaundi):** Therefore, what you are presenting before this Commission is that you also worked at KEMRI and you were sacked from the job after your brother died?

**Mr. Yoronim Etyang:** I can present it. I was given a job at KEMRI but later, there was a problem because of Titus. It is not that I was employed permanently; I was working on temporary basis.

**The Commission Secretary (Ms. Nyaundi):** Thank you very much. We thank you for your contribution to back up this report. At this moment, I would like to talk to your mother.

Mama, you will take an oath.

*(Ms Marisiana Nyabola took the oath)*

**Ms. Marisiana Nyabola:** My names are Marisiana Nyabola and I am living at Aromodoi.

**The Commission Secretary (Ms. Nyaundi):** Thank you mum. We thank you for coming this day. We know you have heard what Okodoi told the Commission and also Yoronim, your son who has contributed just now. Sorry, mama there is a technical problem which we are trying to solve.

This is a language solution; the Hansard is not getting the English, you can attempt ---

*(There was a technical interruption of recording  
due to power interruption)*

I want to ask you mama, is there something that you want to tell this Commission about your son Titus? Please tell us.

**Ms. Marisiana Nyabola:** What I can say now is that, under the leadership of the current Government, some people receive money from the Government but I do not get. Because I am aging, my ears are not functioning well. I am also approaching death because I have nothing else to do. I would also like to say that I could be putting up well and eating well like other women if my son Titus was still alive. I would also have had some money to sustain me.

**The Commission Secretary (Ms. Nyaundi):** With regard to the road block which is near home, is there a suggestion or message that you would want to pass to the Government?

**Ms. Marisiana Nyabola:** It is you to know what to do with the road block because as a woman, I do not have anything to say. I still maintain that, that road block does not concern me.

**The Commission Secretary (Ms. Nyaundi):** At this time, Commissioners may ask you and your sons some questions.

**Ms. Marisiana Nyabola:** Now that my child died, other people are suggesting that a school be constructed and be named in memory of Titus.

**The Commission Secretary (Ms. Nyaundi):** What is your view on that?

**Ms. Marisiana Nyabola:** The Government should come to the family and find out what they want done. That is all that has brought me to this Commission, so that Titus can be recognized. Anybody visiting Titus' home should be able to know that, actually, that is the Titus Adungosi home.

**Commissioner Farah:** We empathize with the family of Longoisi Adungosi and Mama Marisiana and all the relatives of the late Titus Adungosi. I have been reading about the late Adungosi only in the newspapers; not all the time but at intermittent times. But

today, I have received all the evidence and the story behind the sad demise of Titus Adungosi; his family having fought for the second liberation. I am glad to note that the hon. Prime Minister has visited the family and that the Government is aware of that.

I have no questions to ask. I have heard the story and just want to join my fellow commissioners in empathizing with the way the late Titus died.

Thank you very much.

**The Acting Chair** (Commissioner Namachanja): Commissioner Dinka, please.

**Commissioner Dinka:** I too, have no questions to ask but I would like to thank Mr. Maskini, Mr. Etyang and Mama Marisiana for coming here and sharing with the Commission, the tragic story of the family of Adungosi; particularly, the extra-judicial killing of Titus. I would like to express my own and the Commission's empathy with you. We have heard and shared your pain. I hope that as a result of this discussion between the family of Adungosi and the Commission this morning, the life of Adungosi will improve for the better and particularly, that of Mama Marisiana. I hope that you will continue to be as courageous as you have been and be proud of the legacy of your son Titus, whose life would be celebrated by the present and the future generations of Kenya.

I thank you very much. I am honoured and consider this as a privilege to be with you.

**Commissioner Shava:** I would like to join the sentiments expressed by my fellow commissioners. Mama Marisiana, I would like to thank you very much for coming here today. You have said that you are growing old; so, we know you had to make a special effort to come and talk to us about your son who died in such painful circumstances. We have heard what your recommendations are and I would like to say that you raised a great man and son.

I think there was a grandson who spoke but I do not know whether we have his name in the records. So, perhaps, for the record, the gentleman sitting behind Mama Marisiana, you can repeat for us your names and tell us exactly how you are related to the late Adungosi and who is your father and mother.

**Mr. Charles Adungosi:** Sincerely speaking, I am the grandson to Marisiana and my name is Charles Adungosi. All this happened when I was still young but I was only informed that my father's brother who was in Nairobi had been killed. I never knew whether he was working or he was jailed. But something which is so amusing is that it reached a time while we were sleeping, we were told that your father and other relatives had gone to Nairobi. The following morning, we were woken up and we saw a vehicle coming and in that vehicle was a coffin. By that time, I could not identify a dead body. Really, as young children, we were chased out of the house by people who I did not know. My father and mother are here. Mr. Francis Adungosi was a teacher. I never went to school, so I never achieved the educational level that I desired. Therefore, I never got a good job. I am just a driver. I also have a family to feed. It was only yesterday that I was woken up at night to take Mr. Adungosi's wife to hospital. After a short time, I was told

that she had delivered twins. Since I was employed, I could have moved upwards in terms of development but I have a very heavy burden of dependants. I remember at one time, I paid a hospital bill of Kshs15,000. It was only me who could pay that amount. I do not work for a company but it is my uncle who has employed me as a driver. The hospital bill was so big that they almost auctioned us because nobody could assist me. I carry the burden of all these people. If I have to continue to carry the burden of all these dependants, I am planning to move away from home. I want to go somewhere very far. There are also very many children at home and it is me who takes care of them even when they are sick. I do not know what to do next. I have nothing else to say but I only ask that you help me with this sick lady. She is choosy with what she eats because she is sick. It is just by luck that she is alive. She is very sick and she cries the whole night. I am the only one who is around because the other uncles and brothers do not live here. This lady is becoming a burden than my real mother. At the time of payment, I get nothing because I have already spent all the money on her.

**Commissioner Shava:** Thank you very much for what you have told us. We want to congratulate you for looking after your family. The burden is so heavy that you want to run away because you are prioritizing other people than your own family. We really empathize with the situation in which you are in.

As my fellow Commissioners said, you have painted a very clear picture of the situation to us. From your memorandum and from your presentation, we now understand the situation but I have a few questions for you. In the memorandum, you have said that you have a cousin but it appears that you are the nephew of the late Titus Adungosi. Could you just clarify to us for the sake of our records and also say the names of your parents?

**Mr. Okodoi Maskini Odera:** The African context and English are different. My mother's sister in English is aunt but to us it is "mother". That is the relationship.

**Commissioner Shava:** I understand our traditions and I agree with you on that point but for our records, we just need to get it right. Who exactly are your parents?

**Mr. Okodoi Maskini Odera:** Amendono Odera and Sylvanus Odera are my parents. Amendono is the sister to Marsiana and that is why I said that I am a cousin. What is bringing a big problem is that the lady is so old. You will forgive me for mentioning this. When the Truth, Justice and Reconciliation Commission (TJRC) officials came to the village, one of them sympathized with the situation and called me to Nairobi and gave me Kshs10,000. We used that money to cement the house. One day when she was sleeping, a snake crept into her house. Since that day, she has never slept in the bedroom. She now sleeps in the sitting room. I want to take this opportunity to thank Madam Patricia Nyaundi, the CEO. She is the one who empathized with the situation. I have many responsibilities and yet, I do not have a good job but when she becomes sick I intervene. During the last hospitalization, I was fully in charge. When she was admitted to the hospital, someone gave me Kshs10,000 and told me not to bother paying back. The situation is so pathetic. A generation that has not gone to school is here. There is a young man who is very bright but has not gone to school; so, he is just employed as a driver. He

could not proceed after form three due to lack of school fees. So, they let one of the brothers continue with school instead of all of them but unfortunately, he passed on. It is very sad. The transport to this place was by a Nissan that was offered for free but many people said that they cannot come to open those wounds again.

**Commissioner Shava:** Thank you for that explanation. The next question I want to ask could be quite painful. You talked about how darkness came upon you and even those two chicken that were left were sold to buy insecticide. You are also telling us that the information was not clear to enable you to search the body. I was wondering about the condition of the body, why would you need an insecticide and yet the coffin was covered?

**Mr. Okodoi Maskini Odera:** The problem was the stench. Even Mama Marsiana says that whenever she is in low moments, that stench still comes so freshly. When the body was brought, it was placed about 100 metres from where people were. When it was brought to the altar, it needed a lot of courage from the priest. If you moved closer, the stench was too much and yet according to the Teso, you are not allowed to spit at a corpse.

**Commissioner Shava:** Thank you. You have now made the situation very clear. I would like to recall some things that you have said. You have said that Mr. Adungosi was an eye that saw tomorrow. He was a person of integrity and did not smuggle things across borders. He was a man of integrity and this country lost an asset. You have asked the Commission to shed light on what will happen. We just want to assure you that all the things that you have mentioned here and your coming is not in vain. We will exercise our mandate and make strong recommendations to the Government.

**The Acting Chair (Commissioner Namachanja):** I would like to tell all the participants that I want to join fellow Commissioner in thanking them for coming to share with us in this public hearing about whom Titus Adungosi was and the manner in which he lost his life. Mr. Okodoi, I do not know what you feel now. Since you have testified to us, how do you feel? Just tell us in a few words.

When this Commission was constituted, we were not happy with those who were against it. We thought that those who were opposed to it did not know what pain is. This Commission has given us a forum to get solace and remove pain through the sharing process. At one time Mama Marsiana said that she wants to meet you so that you can assure her that you will follow up this matter and ensure that justice is done even when she is gone. Then she will be very happy. Today, it started drizzling in the morning and her comment was that it is a sign of good things to come. It is part of the healing process for her to know that it is a good beginning. We are very grateful to the Commission and I know that this is a constitutional Commission and I believe that justice will be done even though it might be delayed. That is all I can say. This is a matter that has been there for quite some time and generations have suffered but we are expecting the best.

**The Acting Chair** (Commissioner Namachanja): What does justice mean to Mama Marsiana, for example, in the case of the death of her son Titus? Explain to her what I am saying because I want her to express to me what she feels.

**Mama Marsiana:** Since I am not able to meet my daily needs because of poverty, I request that justice be done.

**The Acting Chair** (Commissioner Namachanja): We hear you, Mama Marsiana. You are saying that if your son was here you could be eating well and wearing good clothes. That is the message that we are going to carry forward in our recommendation; not just to this Commission but to Titus' friends. We shall share with them what you have shared with us.

For Charles, as I sat here looking at you, I was thinking that Titus died but I can see the incarnation of him in the young man who is you. Now I understand the struggle that you have gone through. Even if Titus would not have gone to school to that level and if he could not have got a job, he could have done what you are doing for an old mama like Marsiana. So, I just want to encourage you not to quit. Continue with the struggle because that is what Titus would have wished.

It is unfortunate that Mama Marsiana's son's life was cut short because of what happened. I just want you to feel encouraged that your son touched many lives including mine. When Titus was a teacher at Chakol Girls, I was a student there. He was my teacher and he taught me Kiswahili and English. He is not here but the foundation of English that I have that I am using as a Commissioner, I got it from Titus even before he joined University.

A lot has been talked about the road block and Commissioners have agreed not to talk about it. On our way to Bungoma, some of the Commissioners will pass on that road and observe it so that when we are writing our report, we have facts. Once again, I want to thank you and also tell you that I know it is a struggle. This is a day that shows you that this country valued your son. We cannot bring him back to you but if we can remember him through the proposals that have come forward with either by putting up a university or naming a university in his name, the community will know that we had a young man who was a role model and a leader in this community. Once again, on behalf of the Commission I want to thank you for coming forward to share with us the life of Titus and how he touched your lives and the unfortunate loss which the family still suffers up to now.

**The Commission Secretary** (Ms. Nyaundi): Madam Chair, with your kind permission, I am requesting that I submit to the record of the Commission a summary of the report of the support that the family got through McMahon who assisted them to educate the children. I submit that we admit that summary of payment made by him to the record of the Commission.

**The Acting Chair** (Commissioner Namachanja): It is accepted.



Let us now take the next witness.

*(Mr. Ronald Juma took the oath)*

**The Commission Secretary** (Ms. Nyaundi): For record purposes, could you please state your name and what you do?

**Mr. Ronald Juma:** My name is Ronald Juma and I sell vegetables in people's homes.

**The Commission Secretary** (Ms. Nyaundi): You wrote a statement about how you underwent torture because of being suspected to be one of the members of FERA. I would request you to look at this report which you wrote in front of Mr. Evans Okello who works with the TJRC; tell us if it is the one that you wrote.

**Mr. Ronald Juma:** Yes. This is the statement that I wrote.

**The Commission Secretary** (Ms. Nyaundi): So, you agree that we should take it as part of the evidence to the Truth, Justice and Reconciliation Commission (TJRC)?

**Mr. Ronald Juma:** Yes.

**The Commission Secretary** (Ms. Nyaundi): Thank you. Since this Commission has already received your statement, I would want you to tell us the time when you were arrested in 1974 and taken to court. Could you tell us what transpired then?

**Mr. Ronald Juma:** In 1974 I was arrested by the Government of Kenya and put in jail because they were following people who had moved from Kenya to Uganda, Rwanda, Congo and Libya. I was arrested because they thought I had gone out of the country. The reason why I left Kenya is that my life was not good. I was born in Kenya but I am an orphan. I have never known my father and mother. I have gone through a lot of difficulties. I did not complete school. I just went up to class eight. I dropped out because I was fending for myself to pay for school fees and buy uniforms. I gave up and went to other countries because I heard that young men are needed in those countries for jobs. I left Kenya and went to Uganda to get means of survival. I wanted to be recruited into the army. While I was in Uganda I went through many other problems. I did not know that the jobs that they had said were not there but it seems somebody had sold me into slavery. That was a very dreadful thing and it gave me a lot of fear. I stayed in Uganda for a long time. Later on I went to war in Rwanda. We wanted to overthrow the then President Habyarimana. The battle was so fierce and so I decided that that is not the kind of job that I had intended to do. I left and came back home. When I reached home, the government thought that I was a member of an underground party called FERA. I was picked by the special branch from Changara and taken to Kakamega. They then blindfolded me and put me in another vehicle. I found myself in Nyayo House. They tortured me for five months continuously. I was tortured in different ways and very bad things were done to me.

They tortured me continuously for five months. I was tortured in different ways. I was beaten. Very unlawful things were also done to me. In February, 1995, I was taken to court. I met Nancy Baraza, who is now the Deputy Chief Justice. Nancy was also with Dr. Khaminwa. They tried to defend me but the rules that had been set for me were difficult. They told me: “If you appear before court and deny the charges and then you come here, we will kill you.” So, because of the prolonged torture that I had undergone, I pleaded guilty as charged, so that I did not lose my life. When the charges were read to me, despite the fact that Nancy had advised me against accepting the charges, when I remembered what I had been told, I accepted the charges before the court. The Nairobi Chief Magistrate, Mrs. Uniter Kidula, jailed me for five years. I served my sentence at Kamiti Prison. While at Kamiti, I was put into solitary confinement. I used to be on my own, on a bare cement floor. There was not even a blanket for me. There was nothing to lie on. I would just be pushed into the cell and just sit there.

I contracted a lot of diseases, including tuberculosis. I have suffered from TB twice. I also suffered from pneumonia. I also suffered from ulcers. After completing my sentence, I came back home in 1997. After staying at home for a short while, I decided to look for ways of supporting myself. I did not have anything. I did not even have a place to put up a house for myself. I did not know where to borrow money from to start a business. It was impossible because the citizens of that place are very mean. I was viewed as a criminal and people felt that I was not worth being there. They did not have good intentions for me. They just heard that I was the one who had gone to a foreign country. So, whenever crimes were committed, even in areas which were far away, the police would be told to come and arrest me on allegations that I was the one who had been involved in the crime.

So, for whatever crime that took place, I would be blamed. Even if someone beat another person at night, they would say that I was the one who had done it. So, even though I was released from prison after serving my sentence, I was still being regarded as a criminal where I lived to the extent that even as I speak, my life has become extremely difficult. I started selling sugarcane. I would buy sugarcane for about Kshs100 and go to sell it, not knowing that the Government was still targeting me. I did not know that someone would carry 200 bullets and place them on the boundary between my house and my neighbour's house.

The Government had been informed that I was involved with FERA. So, security agents looked for excuses to arrest me. I was taken to a police station in Malava. Even though I denied the charges, they took me to a court in Bungoma. The charges were read to me, to which I pleaded not guilty. I was remanded. The case went on from 2004 up to 2007, when it was concluded. The court found me guilty as charged, and I did not know what to say because I knew that I was innocent since I was not in possession of the bullets. The bullets were found far away from where I was arrested. Secondly, the bullets were not found in my house but the Government stood its ground and sided with the people who lied against me.

I was, therefore, jailed for seven years for possessing the bullets. After I completed my sentence, an additional three years were added to my term. So, I was put under police supervision for another three years. I appealed against this sentence. The authorities have been taking me round in circles. I have been transferred to several police cells, including Bungoma, Kakamega, Kisumu, Kibos and Kodiaga. I was brought back to the Kibos command, taken to Naivasha and many other places. I have been to all the jails.

As I went through all this, I did not have anybody to stand with me, or even bring me soap. Maybe, because I am an orphan, I have just been on my own. By the year 2004, I had a wife. As I speak, I have four children. However, they were not able to reach me because they did not have money for bus fair to reach me. I had just started a family, and there was no help coming from anywhere. I do not have a brother or a sister. I do not have an uncle or mother to visit me in prison. God is the one who helped me while in prison. I tried very much to follow the word of God. I read the word of God throughout the time I was in prison. I went through training, after which I graduated with a diploma.

I am also blessed with the gift of singing. I learnt to play many musical instruments and sang in praise of God. I came out of prison with a lot of hope, having been victorious despite all the problems that I had gone through. Even though I completed my sentence last October, I arrived at home and found a very difficult situation. Some of my children were ailing from various diseases. You could not look at them. All my children looked like statues.

What I am saying is that I was victimized because of FERA. I have suffered so much. It looks like I will never be able to get myself out of this victimization despite the fact that I have not caused anybody to suffer. I have not even said anything bad against the Government or against anybody, but people view me as the one who kept on making mistakes. I do not know where to run to. I have become some kind of bat, that is neither mammal nor bird. I know that I am an animal who was born in Kenya. I do not know where to go.

Now that I am talking to this Commission, I hope that all the pain I have gone through in the first and second rounds of torture will be addressed. I have narrated all the torture I have gone through. One side of my body is paralysed. An operation was conducted on me when I was in Kisumu. I have been admitted and treated in hospital for almost three months. I am now weak. I cannot perform heavy duties because of suffering from TB, pneumonia and ulcers. I do not get help from anybody. I am, therefore, forced to work very hard.

Therefore, I am pleading for justice to be done, so that I can have a better life, and not a life of victimization since it was not my aim in life to be stigmatized and branded FERA member. I do not know whether FERA was a political party or a militia group. I did not promote FERA activities. I did not bring with me to my home FERA equipment to continue with criminal activities against the Government or against the citizens. So, I do not know why I am suffering. Life became very difficult for me. The person who told me

to go and get a job elsewhere, and that I would become successful in life, caused the beginning of the problems in my life.

Thank you.

**The Commission Secretary** (Ms. Nyaundi): Mr. Juma, I appreciate that you have explained your statement. I will not ask you to explain your statement further in relation to the two cases that you have mentioned – the one of 1997 and the one of 2004. Do you remember the case numbers?

**Mr. Ronald Juma:** I can get the court file number for the case of 2004, if I go home and get the court proceedings. A record of the court proceedings is at home. I cannot recall the case number due to the many things that I have gone through.

**The Commission Secretary** (Ms. Nyaundi): I would request that before you leave, you leave your contact with the person seated next to you, so that we can get the case file numbers pertaining to your cases, so that thorough investigations can be done by the Commission. For now, I will hand you over to the Commissioners to ask you questions, if they have any.

**Commissioner Farah:** Mr. Juma, I have two questions for you. First, where did you say you went? Did you go somewhere in Rwanda?

**Mr. Ronald Juma:** I went to Uganda. After getting some military training, we were taken to Rwanda.

**Commissioner Farah:** Who told you to go to Uganda to get military training?

**Mr. Ronald Juma:** It was an old man called Elijah Kilumi. He was also fought by the same Government agencies that arrested me. He was beaten to death.

**Commissioner Farah:** Did you also say that after your training you went to Rwanda to fight?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** Did you fight in the civil war that led to the overthrow of former President Habyarimana?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** It was during that fierce fighting that you found out that that was not your life?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** You then came home?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** Subsequently, Kenyan Special Branch officers arrested you. Is that correct?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** What were the charges that were preferred against you?

**Mr. Ronald Juma:** Before court, the officers said that they arrested me because I had taken an oath three years earlier, and that when I resurfaced, the citizens in that area became worried. They thought that I would fight them or attack a police post or an Administration Police camp and commit crimes. So, the citizens informed them that there was a person who had been away, and who had come back and---

**Commissioner Farah:** What were the charges that were preferred against you in court, which led to your being imprisoned for five years?

**Mr. Ronald Juma:** They charged me with being a member of an unlawful party.

**Commissioner Farah:** Which unlawful party? Was it FERA?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** On the second time when you were imprisoned for seven years, you were charged with something to do with bullets? What is the story? Can you explain a little bit and in a very short way?

**Mr. Ronald Juma:** The bullets I talked about were found on the boundary of my compound and my neighbour's compound. Previously, I had told the neighbour that the plot I had was very small. Every time he shifted the boundary, I would report him to the village elders, and he would bribe the village elders. When he realised that the village elders could not get me out of my piece of land, he decided to report to the security agencies that I had been found with bullets. They knew that if they placed the bullets there, I would be charged with an offence. So, I was, indeed, taken to court with the bullets; I was taken to Bungoma Magistrate's Court.

**Commissioner Farah:** So, the bullets were planted there by some other people?

**Mr. Ronald Juma:** Yes.

**Commissioner Farah:** Thank you very much. I have no further questions for you.

**Commissioner Shava:** Mr. Juma Buteta, I just have a few questions for you, so that I can understand your story well. Your statement said that when you decided to go to Uganda, you went and stayed there with someone called Emmanuel, whom you met at Luakhakha Border point. However, the statement does not say who Emmanuel was to you. Was he your friend? Your statement says:-

“I decided to go to Uganda to stay with a Ugandan, whom I had met at Luakhakha border.”

Who was Emmanuel to you? Was he your friend?

**Mr. Ronald Juma:** He was my friend.

**Commissioner Shava:** What was his nationality?

**Mr. Ronald Juma:** He was Ugandan.

**Commissioner Shava:** While in Uganda, you went to train in military combat, after which you went to Rwanda to fight. You said that the target then was the Rwandan Government. I am wondering what your targets were. Who were the people you were fighting? Were you fighting soldiers or militias?

**Mr. Ronald Juma:** We were fighting the Government of former President Habyarimana. We were fighting soldiers.

**Commissioner Shava:** You said that you were in Gumba for a week. Do you remember when it was exactly?

**Mr. Ronald Juma:** We went into that country around February, 1994.

**Commissioner Shava:** When you returned to the transit camp in Mbarara, how did you return? Mbarara is in the South of Uganda. Gumba is in the North of Rwanda. So, which route did you use, since you were in a situation of conflict?

You were not friends with the Government of Rwanda. Where did you go through?

**Mr. Ronald Juma:** It was because of the RVs. You would be on RVs in a specific place, and your names and numbers would be in different RVs. I was in Mbarara RV---

**Commissioner Shava:** What is “RV”?

**Mr. Ronald Juma:** Hon. Commissioners, “RV” was like a base where combatants would be stationed for a short time as they prepared to attack or organise themselves for training.

**Commissioner Shava:** So, what you are saying is that you were in a place for a short time, and then you were to disperse and move on without being detected?

**Mr. Ronald Juma:** Yes. I decided to leave the RV at Mbarara and go to the Bugema Barracks, which was far away. When I reached Mbale, I did not stay for long. I took a vehicle because I had a little money. I came back to the border of Kenya and Uganda and crossed back home.

**Commissioner Shava:** You did this because, as you said, when you were in the camp in Mbarara, you were reflecting on your life, and you thought that your life was not good. What did you think was not good about your life at that time? You were earning a salary. You got training from various armies. You had a career as a soldier ahead of you. What did you find was not good about your life?

**Mr. Ronald Juma:** In any war, once you are on the frontline, that is where there is a lot of pain, because you cannot look backwards. Once you have decided to go, you must keep matching on. Since that is not a place you know, it is very easy for you to die. Many people died during that war. I would look at those people who had died and I came across even more corpses as we marched on. Finally, I decided that I was not going to continue fighting. So, when we went back to the RV, I decided to run away and come back home.

**Commissioner Shava:** If we may leave that part of your life and come to how you were trying to build your life after you came from there, you have told us the things that happened to you in prison. You were tortured. We are very sorry about that because it is illegal. It is a violation of any human being's basic human right. It should never have happened. So, we are very sorry for it.

Was there training of any sort you were offered in prison that equipped you for life when you got out of jail?

**Mr. Ronald Juma:** While in prison, I learnt to sing and went to AFC School, which teaches theology.

**Commissioner Shava:** Does this training have any links to what you did when you came out of prison? For example, you were studying theology. Were you then linked to any sort of theological institution, which would give you an employment opportunity once you came out of prison or anything like that?

**Mr. Ronald Juma:** I was expecting that once I left prison and got musical instruments, I would produce songs because I had been trained to sing. Also, if I got a chance to be a preacher, I would really have preached to people.

**Commissioner Shava:** From what you are going to tell us in response to my next question, we are going to make recommendations. You told us how you had found it difficult to live in society and how your neighbours did not accept you, that whenever something went wrong, the finger would always be pointed at you because of your past,

and that nobody takes you the way you want to be taken, and that nobody thinks that you have reformed. Is there anything you would like to say about the Prison Service, and the probation service, in terms of what they should have done to prepare the society to which you were coming back? What are some of the things you think we could do that would help people when they come out of prison to be accepted by society?

**Mr. Ronald Juma:** I was released by the High Court upon a successful appeal. When I went to Bungoma Prison to be given a letter, the Officer-In-Charge was absent. They tried to write a letter to show that I was reformed but it was difficult. Prison authorities do not allow released prisoners to continue staying in prison. So, I was released. So, it has been difficult for me. I do not know which miracle needs to happen. Even around the 18<sup>th</sup> of last month, the AIC church at the market place was invaded and things stolen. I was very surprised that the pastor could not trust me. He came to my house at 9.00 p.m. and searched it. He walked all over the compound to make sure that he did not see anything that had been stolen from the church. The truth is that I was very worried. I looked at all these stumbling blocks and said to myself: “So, these people think of me as criminal up to today!”

When I see policemen pass near me, I get worried. I fear that they are coming to arrest me, or to spy on me and find out whether I am still there or not. So, life is difficult.

**Commissioner Shava:** Mr. Juma, thank you very much, for sharing the story of your life in a very candid manner. We have heard what you have said. We empathise with the condition in which you find yourself. You have served time in prison. You have paid your debt to society but it looks as if society is not willing to accept you back. That is a very painful situation. We are going to look very carefully at what you have said, so that we can make strong recommendations, so that you and other people in your situation do not have to continue to suffer like this when they have been re-introduced back to society after paying for what they did.

**The Acting Chair** (Commissioner Namachanja): Ronald, how old were you when you joined FERA?

**Mr. Ronald Juma:** I was about 19 years.

**The Acting Chair** (Commissioner Namachanja): Had you acquired any education in Kenya?

**Mr. Ronald Juma:** In Kenya, I got primary school education, from Standard One to Standard Eight. I did not have anybody to help me go beyond that point. So, I decided to leave school.

**The Acting Chair** (Commissioner Namachanja): I have asked you that question because I wanted to find out if, for example, being in the armed forces was something you liked. If that is so, why did you not enlist in any of the Kenya armed forces? I now understand that it was because of your academics.



**Mr. Ronald Juma:** Despite the fact that I had hoped to join the military, if I had found any other job that would have enabled me to build my foundation, I would never have dared to even listen to the issue of going to another country. However, I did not have any assistance. All the people around me were people I used to till land for, carry water for and look after cattle for. Those people could not help me get a meaningful job other than being their labourer.

**Commissioner Shava:** While you were in the forces, what was the language of communication?

**Mr. Ronald Juma:** There were sign languages we were taught. Even without anybody saying something, there were signs which were given to tell you that there was an enemy, or that it was safe or that you were supposed to get up or sit down. This was the language we used. It was the language we were taught and made to understand. So, the most common language that was used was military language, which was mainly signal language.

**The Acting Chair** (Commissioner Namachanja): So, the fact that you were a Kenyan fighting in Rwanda did not give you any language problems? Was the language used for general communication amongst the soldiers Kiswahili, English or Kinyarwanda?

**Mr. Ronald Juma:** Most of the time I used Kiswahili because there were people who had gone to school in that country, and they learnt Kiswahili. Many military personnel understood Kiswahili. I used to communicate in English, which I learned from my primary school level. At least I could understand. So, I tried my level best.

**The Acting Chair** (Commissioner Namachanja): I am sorry for asking you this question. It is not because I want to know about your ethnicity, but I know that you come from the border area. Which community do you come from?

**Mr. Ronald Juma:** I am a Bukusu. My neighbours told me so. Even the teachers who taught me told me that I am a Bukusu.

**The Acting Chair** (Commissioner Namachanja): Amongst the people you were put together with in that army, were there other Kenyans or were you alone from Kenya?

**Mr. Ronald Juma:** There were other Kenyans. Some of them came from the area I come from. They were recruited by the same man who recruited me, after convincing us that he was going to offer us jobs. So, we left. We were many young men. Others went to other armies; there were many Kenyans.

**The Acting Chair** (Commissioner Namachanja): Approximately, how many were you?

**Mr. Ronald Juma:** Even without approximating the number, I can say that the Kenyans I saw in that area could have been about 270.

**The Acting Chair** (Commissioner Namachanja): A long period of time has passed since then. I wanted to find out whether you know that they are still there. What would happen, for example, if a Kenyan died while fighting? During your time there, was the Government notified? Were the deceased person's family members notified? Would the body be brought back to Kenya for burial?

**Mr. Ronald Juma:** The Kenyans who were out there became very afraid when they heard that I was arrested. They are afraid of coming back to Kenya to date. There are few of them who were brought back by the United Nations High Commission for Refugees (UNHCR). I do not think the ones who were brought back to the country have known any peace. I know three young men, one of whom was the person who recruited and took us there to fight. One of them was killed. After some time, the other one was killed. Regarding the third one, when his father saw him, he tried to cut him into pieces in an attempt to kill him. Both the old man and his son were arrested. The old man was arrested after some people reported to the authorities that he was the one who was recruiting people to join foreign militia groups.

**The Acting Chair** (Commissioner Namachanja): So, the two you mentioned were killed while in Kenya?

**Mr. Ronald Juma:** One was killed while in Kenya and the other one was killed while in Uganda.

**The Acting Chair** (Commissioner Namachanja): For the few who may still be there, what is your recommendation? What could the Government do to encourage them to come back? If you went there at the age of 19 years, some might have gone there at less than the age of 19 years against their will. What should the Kenya Government do, maybe, to search for them and encourage them to come back?

**Mr. Ronald Juma:** I do not know whether those who are still in foreign countries are involved in the military. The news that reached me when the UNHCR returned some of them was that the people who were in the refugee camps had become settlers there because of the fear they had. I would like them to know that I was arrested, jailed and, finally, released. Today, I am here, before this Commission. So, there are chances that the Government can be convinced to let these people come back. I am no longer living in fear. I am before the Truth, Justice and Reconciliation Commission (TJRC). They can be defended and helped to lay a new foundation for their future life.

**Commissioner Shava:** Mr. Juma, the statement we have from you talks about being in the Ugandan Military between 1992 and 1993, but you have just told our Acting Chair, if I heard you correctly, that you were a soldier from 1970 to 1989. Is that what you said?

**Mr. Ronald Juma:** No.

**Commissioner Shava:** For how long were you a soldier?

**Mr. Ronald Juma:** I became a soldier in 1992, after training, and served until February, 1994.

**Commissioner Shava:** How much were you earning?

**Mr. Ronald Juma:** That is where the pain is, because in the military you take orders. In terms of salary, we were paid in---

**Commissioner Shava:** Sorry. The statement we have from you is talking about being in the military in Uganda between 1992 and 1993. But you have just told our Chair, if I heard correctly, that you were a soldier from 1970 to 1989. Is that what you said?

**Mr. Ronald Juma:** No.

**Commissioner Shava:** So, for how long were you a soldier?

**Mr. Ronald Juma:** From 1992 to February 1994.

**Commissioner Shava:** How much were you earning?

**Mr. Ronald Juma:** That is where the pain is because it was a job that you were ordered to do. You were given food, but no monetary gain unless you looked for money through your own means. You are told that people are paid after the war. Because of the fighting there was no way that you would be paid a salary.

**Commissioner Shava:** Thank you. Leader of Evidence!

*(Mr. James Obakha took the oath)*

**The Commission Secretary** (Ms. Nyaundi): Thank you and welcome to the Commission. Please, say your name once again, where you live and what you do for a living.

**Mr. James Obakha:** I am James Obakha. I am a resident of Nasewa in Matayos Division, Busia District, now the larger Busia County.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much. I can see that there is a memorandum addressed to the TJRC, prepared in May 2011 and signed by three people, including you as the secretary. Is that correct?

**Mr. James Obakha:** That is true.

**The Commission Secretary** (Ms. Nyaundi): It is talking about the evictees of Nasewa Sub-location who were underpaid or under-compensated and evicted from their ancestral land in Nasewa Sub-location.

**Mr. James Obakha:** That is true.

**The Commission Secretary** (Ms. Nyaundi): Can we admit this memorandum as part of the record of the Commission?

**Mr. James Obakha:** Yes, please.

**The Commission Secretary** (Ms. Nyaundi): Thank you, Mr. Obakha. Now that we have admitted the memorandum and because the Commission will have opportunity to read it, I will just guide you with a few questions. In which year were people relocated from Nasewa Sub-location?

**Mr. James Obakha:** In 1997.

**The Commission Secretary** (Ms. Nyaundi): How many people were affected?

**Mr. James Obakha:** They were more than 250 people.

**The Commission Secretary** (Ms. Nyaundi): What was the reason for evicting them?

**Mr. James Obakha:** The Government came up with a project (*inaudible*)

**The Commission Secretary** (Ms. Nyaundi): Are you one of the people who were affected?

**Mr. James Obakha:** Yes, I am.

**The Commission Secretary** (Ms. Nyaundi): In your memorandum, one of the issues you have raised is that there were two evaluations that were made. Is that correct?

**Mr. James Obakha:** It is correct.

**The Commission Secretary** (Ms. Nyaundi): Talking about yourself, what was your experience with the evaluation that was made on the land?

**Mr. James Obakha:** My experience on the evaluation of the land was that land was identified and plot owners shortlisted. After that, they came to list the items that were in every plot in the presence of the land owners. That was done in 1991. After they had listed all the items, they instructed people not to put up new developments. So, people left everything expecting to get back the list of the items that were in their plots.

**The Commission Secretary** (Ms. Nyaundi): You never got feedback on the second valuations.

**Mr. James Obakha:** We did not get feedback on either the first or the second valuation. Even up to date, we do not know.

**The Commission Secretary** (Ms. Nyaundi): How big was your parcel of land?

**Mr. James Obakha:** I come from a family and ownership is by my father. We have about 7.5 acres.

**The Commission Secretary** (Ms. Nyaundi): So, your father is the one who received the compensation in 1997?

**Mr. James Obakha:** Yes.

**The Commission Secretary** (Ms. Nyaundi): So, how much compensation was given to your family?

**Mr. James Obakha:** It was Kshs575,000. That is what my father said.

**The Commission Secretary** (Ms. Nyaundi): Who was managing this acquisition of the land?

**Mr. James Obakha:** It is the Provincial Administration that was co-coordinating.

**The Commission Secretary** (Ms. Nyaundi): You say that in your own case, compensation was not sufficient?

**Mr. James Obakha:** It was not sufficient.

**The Commission Secretary** (Ms. Nyaundi): Did you conduct an independent valuation of the land?

**Mr. James Obakha:** No, we did not have to do that. It was done in 1996 and we were told to move out in 1997. So, there was no time to think of bringing in an independent valuer.

**The Commission Secretary** (Ms. Nyaundi): Now, you stated in your memorandum that some people were forcefully evicted.

**Mr. James Obakha:** Yes, they were.

**The Commission Secretary** (Ms. Nyaundi): About how many people were forcefully evicted?

**Mr. James Obakha:** They were more than 50 families.

**The Commission Secretary** (Ms. Nyaundi): Are you among the families that were forcefully evicted?

**Mr. James Obakha:** No. I happened to own land at the time and so, we relocated earlier than them.

**The Commission Secretary** (Ms. Nyaundi): What injuries did those who were forcefully evicted suffer?

**Mr. James Obakha:** There was loss of property. Families were also dispersed. There was mental torture. Children would not go to school, because they had been relocated without enough time to---

**The Commission Secretary** (Ms. Nyaundi): Now, in your memorandum you have said that those of you who were removed continue to suffer from the removal.

**Mr. James Obakha:** Yes.

**The Commission Secretary** (Ms. Nyaundi): What are some of the challenges that people have faced to date because of that forceful removal?

**Mr. James Obakha:** The challenges are many. They are just the same as those of a landless person. This is because some bought land and the money was not enough to make them process title deeds. Out of the underpayment or under-compensation people were not able to buy land that was equivalent to what they had earlier on and so, it proved hectic.

**The Commission Secretary** (Ms. Nyaundi): You said originally that when you were being asked to leave the land, the reason was that there was going to be a sugar factory constructed there.

**Mr. James Obakha:** Yes. That is exactly what they said.

**The Commission Secretary** (Ms. Nyaundi): Has that sugar factory been constructed?

**Mr. James Obakha:** We do not have any and I can just briefly also give the history of that. Originally, it was supposed to be Busia Sugar Company in 1997. We waited and it did not come. Every time it has been an issue. They say: "We are looking for an investor because we do not have money." So, it has not been put up to today.

**The Commission Secretary** (Ms. Nyaundi): Has the land been put to any other use?

**Mr. James Obakha:** Yes. The land has been put into another use, but without consulting the community--- Since this was ancestral land, the community was supposed to be consulted, but now Mumias Sugar Company has put up a nuclear estate to plant cane on that land.

**The Commission Secretary** (Ms. Nyaundi): The entire land is being used by Mumias Sugar Company.

**Mr. James Obakha:** Yes.

**The Commission Secretary** (Ms. Nyaundi): I am looking at the second page of your memorandum. You have six issues that you think are the remedies and that the Government should give you. Perhaps, you can tell that to the Commission in summary.

**Mr. James Obakha:** In summary, this was ancestral land and it has got its own attachment, including a burial site, rituals and everything. So, to provide a long-term solution, the people of Nasewa need information first in terms of this compensation; how they were arriving at this value per plot. Then they should provide the first listing of 1991 and the second listing of 1996. Maybe, they should also do a valuation. We are also requesting the Commission that the Government tells us the current status of that Busia Sugar Factory. This is because to us it is just a name; we do not know who the directors are or how they were not able to put up a factory despite us giving them land and them telling us to plant cane. We planted cane which was then sub-contracted to Mumias for milling. So, they are supposed to give us the status of that.

Again, they should give the status of that land in terms of ownership. Who owns that land today, because to us it is the Government that bought that land? But the most interesting thing--- I appreciate the Western coordinator, Mr. Ababu, because when he came for civic education at Country Hotel, we told him our side of the story. He accepted and visited the sites; hopefully you were also among them. He heard our case and said: "That is your opinion. Let us go and get the opinion of the Government." So, he made an appointment with the DC the next day. When we went there the next day, we could not get him in the morning, but he was patient enough and in the evening, we were able to get the DC. The DC had a different version from us. He told us: "It is very simple. Busia Sugar Factory has got its own history. The land where Busia Sugar Factory was supposed to be built is owned by a private firm. It is not the Government that bought it. The Government was only facilitating." So, to us it is different. The Government facilitated and it is the one that was coming to us. We did not see any other buyer. They did not introduce any other buyer to us. Let them come out clear and say who this Busia Sugar Company is.

Secondly, when you look at the parcels of land that were being compensated through that *Kenya Gazette*, we have county council land which was donated by the community for community use. When compensation came, who took that money and what use did they put it on? It is not an issue of Busia people having found a chance to get money. In fact, the first value they are supposed to give us is the information. It is from the information that we shall be able to determine what to do and the way forward. This is because they have scared away the investors. Every time there is an investor who wants to put up a sugar factory he is told: "This land is owned by so-and-so. You are not supposed to come

here or do this and that.” We want that to be put clear, so that we know that we do not own that land and that now that we do not own it, we have got nothing to do with it.

As I stated in my memorandum, there is an element of violence. Mumias is investing a lot of money because they are planting about 800 acres of cane which goes on fire, maybe at the stage of harvesting. That is a lot of money. We have generations that we want to transfer from the old order to the new order. We do not want them to inherit violence. We want them to be peaceful people. Let us train them on how to handle issues in consultations.

That is what we want.

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Mr. Obakha. I really do appreciate your co-operation. I will now hand you over to the Commissioners who may ask you further questions for clarification.

**Commissioner Farah:** James, I want to know whether everybody out of the 250 families has got the compensation. This is because you said that your father got Kshs575,000. How about the others; have they got their money?

**Mr. James Obakha:** Currently, we have other families that have never been compensated, but were evicted. Some are even staying on road reserves because they do not have a place to go. They have tried so hard to get even that under-compensation so that they start a new life.

**Commissioner Farah:** Why was the under-compensation given to some and not others?

**Mr. James Obakha:** My opinion is that there were others who were underage and did not have parents. Maybe, they did not have someone to take the money, but the Government knows why they did not pay so-and-so.

**Commissioner Farah:** Why did you not at that time register an association under the Societies Act and get a lawyer to negotiate with the Government? Why did you do it individually?

**Mr. James Obakha:** I wish to tell this Commission not to lose sight of where we are coming from. We are talking about the past regimes and we know their acts. We know the judicial system. There was no trust among the people because the Judiciary is a Government department and it is the Government that has bought the land. So, how would you go to the same person and complain that he paid you very little money? He will not give you.

**Commissioner Farah:** Actually, it is the other way round. The Judiciary was okay. It is just the administration which was facilitating, as you said, the purchase of the land on behalf of Busia Sugar Factory. So, up to now you do not know what Busia Sugar Factory is all about?



**Mr. James Obakha:** We do not know. They just took our land and it is Mumias and not even Busia Sugar who is doing it.

**Commissioner Farah:** So, the factory was never established?

**Mr. James Obakha:** Not at all. They did not produce even one spoon of sugar.

**Commissioner Farah:** But now you sell your sugarcane to Mumias.

**Mr. James Obakha:** Yes. For out-growers we sell it to Mumias, but the land that they acquired is not in our hands.

**Commissioner Farah:** When you say “ancestral land” did you have title deeds for it?

**Mr. James Obakha:** The set-up of the Luhyas and Luos is such that families stay together and maybe some three generations can pass. You are only shown your land but you do not go and process the title deed. That is the truth. We do not really look at title deeds as the document that you are supposed to own. As long as I have been given my piece of land, I go settle there and do not need even a title deed.

**Commissioner Farah:** You are speaking on behalf of 250 families and have presented a memorandum to our Commission. Have you ever discussed with any lawyer about the status of the land in this area; what is owned by the Government and individuals?

**Mr. James Obakha:** I have not discussed with any lawyer.

**Commissioner Farah:** Thank you very much. I have no further questions, but I think you have given the Commission a lot of investigation to do, when you could have helped us with a lot of investigation. But all the same, it is our mandate.

Thank you very much.

**Commissioner Dinka:** Mr. Obakha, thank you very much for your testimony. I have one or two questions for you. You say that his was communal land.

**Mr. James Obakha:** It was ancestral land owned by families.

**Commissioner Dinka:** Each family had its own plot?

**Mr. James Obakha:** Yes.

**Commissioner Dinka:** So, it is not communal land?

**Mr. James Obakha:** No.

**Commissioner Dinka:** Secondly, when the Government came, it did not say Sugar Company “X” or “Y” was going to come and put up a plant. It just said that they had done some feasibility studies and the place was suitable for a sugar plant. The Government then said: “Sell this property to the Government.” They came and evaluated it and each family received a given amount of money from the Government and ceded ownership to the Government. Is that correct?

**Mr. James Obakha:** The former regimes---

**Commissioner Dinka:** Please, just answer my question. They may have underestimated the value or underpaid you, but the payment was done and concluded. Then ownership was transferred to the Government. The Government took its time from 1991 to now, which is almost 20 years. They did nothing until Mumias came up and said: “Mumias is taking this place.” In other words, the Government took it from the people and brought in an investor who has paid whatever they have paid to the Government. So, Mumias is coming in and you are already selling your cane to them as out-growers. What exactly is your problem, unless you are saying that the Government has underpaid you and you want the current value of the land?

**Mr. James Obakha:** It is not an issue of land being given to Mumias. That is not our problem. They were supposed to put up a milling plant at that site and it had its own benefits. It would come with all the benefits that come with setting up a factory in that place. That was the intention and that is why we gave that land. We were not selling land for the sake of it. We sold land because we wanted to benefit. There were other forms of compensation, including improved infrastructure. Why would you tell us that you are going to set up a sugar factory and still you have not solved our problem because we are still taking our sugarcane hundreds of kilometres away? If we are still facing the same problems, then we were not supposed to give you land. We were supposed just to be out-growers of Mumias.

**Commissioner Dinka:** I thought you said that Mumias has started planting 800 acres of sugarcane on that land now. Therefore, local employment has been created. Is that right?

**Mr. James Obakha:** No, it is not being created.

**Commissioner Dinka:** What is Mumias doing with that land now?

**Mr. James Obakha:** Mumias is planting its own cane. It is nucleus cane for itself, with its own staff. They carry this cane to their plant. So, it is not even benefiting the local community.

**Commissioner Dinka:** You mean they are bringing in workers from outside the area?

**Mr. James Obakha:** Yes. Again, today’s farming is mechanized. Which other benefit would we get?

**Commissioner Dinka:** Even if it is mechanized, there are still areas of farming that need human touch, including the truck drivers and those who bring in fertilizers. There are people who will be required to work. Do you mean that there is zero employment impact on the people of the area?

**Mr. James Obakha:** It is zero.

**Commissioner Dinka:** That is what I wanted to know. When they come to carry their own sugarcane, do they also make transportation available to your cane, or you have to carry it for 100 kilometres?

**Mr. James Obakha:** They carry it but they charge per tonne per kilometre. The problem of distance comes in. If we had a plant, we would maybe be within zero zone and the transport charges would be less. We would be spending maybe Kshs100 to transport, but when you go to Mumias, the cost is about Kshs10,000 because of the distance.

**Commissioner Dinka:** Thank you very much. I have no further questions.

**Commissioner Shava:** Mr. Obakha, thank you very much for your very able presentation. What I have understood is that people had expected their own sugar processing factory and would benefit by being compensated for the land on which the factory is and also by the industry and other benefits that would arise. Instead, you find that somehow through the backdoor, somebody is using your *shamba*. I think I have understood the problem and thank you for the way in which you have presented it and allowing us to ask you questions.

**The Acting Chair** (Commissioner Namachanja): Thank you, Mr. Obakha. I would like to know if there are other members connected to this memorandum in the hall. Did you come alone to represent their views?

**Mr. James Obakha:** Allow me to request them to stand.

*(Some members of the public stood up in their places)*

**The Acting Chair** (Commissioner Namachanja): Thank you so much. That is all that I wanted to know.

Leader of Evidence!

**The Commission Secretary** (Ms. Nyaundi): Thank you very much, Chair. This is the last witness that we had for today. I will now request that you invite the regional coordinator to take charge of our closing ceremony.

### **Closing Ceremony**

**The Regional co-coordinator** (Mr. Ababu Karan): Before I go through the programme I would request my guests who are seated here to kindly relocate to this position.

Presiding Chair, this afternoon during our closing ceremony we are pleased to have a few guests; Mama Zainabu Muyoti, Chairperson Maendelo ya Wanawake organization, Busia District. Mr. Emanuel Odaba Odhiambo, Paramount Chief of Matayo Location Busia is here with us. We are also pleased to have District Officer I, Busia District, Mr. J.M. Maingi who is sitting in for the DC. The programme is short. I will give them a few minutes to say a word or so before I hand over the programme to you for final and concluding remarks. Finally, we shall have a closing prayer by Pastor Peter Jowi of Winners Chapel. We did that because he kindly gave us this room. This is where they hold their prayers. On Sunday they kindly agreed to conduct their prayers outside this hall. So, as a Commission, we thought he is the right person to close this event. Straightaway, I will request Mama Zainabu Muyoti to make a few remarks.

**Ms. Zainabu Muyoti:** My name is Zainabu Muyoti the chairperson of Maendeleo ya Wanawake and former chair of Nambale Town Council. I am pleased to have visitors here from the TJRC being led by a lady, Tecla Namachanja. We, the women of Busia, are very proud to be with her as a chairlady who is running the TJRC. To other Commissioners, thank you very much.

We have been living well here in Busia with many communities up to 1998 when the fighting broke out and we were divided and houses were burnt down and women suffered. I want to make a suggestion as a resolution which can bring peace in Busia District. I want to start by talking about girl education. I want girl education to be strengthened. I want us to have role models who can be visiting girls in the schools, so that girls can use them as examples. Let the widows be protected from the members of their communities because many times when their husbands die, they really suffer. They are molested by the community. Sometimes their property is taken away. They want to inherit you and when you refuse they send you away from your home. I urge the Government through this Commission to protect these widows.

Grants should be given to widows. Without grants, women will just become prostitutes because they will not leave their children to go hungry. When they go out they will get money to come and feed their children. So, let the women be empowered. Once they are empowered, they will not roam all over. There are men who misuse them. If a man had money before he died, relatives will come to live with the widow pretending to be good. Some relatives will even propose to inherit the widow so that they can have a share of the wealth of the deceased. They are coming to take away her money.

With regard to women leadership, I want to thank the Government of President Mwai Kibaki which has seen it fit to see that women are given a certain percentage of leadership positions in this country. But we are not satisfied with that. Let women get appointed in parastatals. Let them appoint many more women as directors because women are not normally associated with corruption. Usually women are straightforward

in their dealings. It is very difficult to corrupt a woman who is in a position of leadership.

I also urge women to contest the 47 county seats in this country. I am encouraging women not to be cheated regarding the 47 seats. I want women to come out and fight for them. We all know that as they fight for positions of leadership, they will meet many stumbling blocks. When they are campaigning, men mistreat them. They incite the youth to beat them up. So, I want this Commission to see that women who are vying for seats are protected. Their security must be assured when they will be campaigning. I am one of those people who have suffered from this.

The other thing is roads. We are requesting that as a country we want a road to come from Amurai passing through every constituency going through Amukira, Nambale, Butula, Funyula to go to the port. If women and men do business, we will interact with all these communities. Busia people do business in Amagoro. Let us work together and do business together. This will bring peace among us.

We have fish, but we do not have cold storages. We are requesting this Commission to make suggestions that we are provided with cold storages. If we had cold storages we would bargain on the prices. But when third parties come into play, they dictate and we are afraid that our fish will go bad and nobody will buy them. So, we normally sell them at a throwaway price.

I want to praise the DC Kitonga. He has tried to bring peace in Busia. He is uniting different tribes such as Kikuyus, Somali and Luo communities. If he continues with peace initiatives, there will be peace in divisions, locations, sub-locations and villages. We should also encourage church, women and youth groups to preach peace in our country.

Our youth are idle. They do not have jobs to do. They completed their education with the hope of being employed. I would suggest that instead of giving them loans and they disappear with it, let us give them grants. If you see that they are sustaining their grants, then they can be given the loans. Now they are receiving loans, they dish the money to each other and then they disappear into thin air.

We also want civic education to be taught on the ground, so that women, old men and children know that we have a new Constitution. What does it entail? Many people said “yes”, but they do not know what is making them suffer. I want to talk about women who are brewing *chang’aa*. This is their livelihood. They do not have any other livelihood. Maybe she is widowed. Maybe she is a single parent and she depends on brewing it. When she is told not to brew it, what else can she do? They will become prostitutes. This will contribute to HIV/AIDS scourge.

In all the things that I have said I would like the Commission to take note of these resolutions. Let us work together as a country. Let us build industries and factories so that our people get jobs. Thank you very much.

(Applause)

**Mr. Ababu Karan:** Presiding Chair, I would like to call upon Mr. Emmanuel Odaba Odhiambo, HAC, Paramount chief of Matayo Location, Busia.

**Mr. Emmanuel Odaba Odhiambo:** First I wish to take this chance to thank you very much for bringing this Commission to Busia County. Many of us thought that as you were going round and as you were coming to Western Province, you would just remain in Kakamega. But we are grateful that we have the chance and that you have put us on the programme to come and visit us in Busia. I thank you very much for the good work that you are doing since you started. You are concerned with the very delicate cases, but my joy is that you have dedicated yourself to do this work with bravery. My prayer is that you continue with the spirit of visiting every part of the country to meet Kenyans and to listen to their suggestions as they will present them before you.

Being a commission which has been established by the Government, you have a very big responsibility. I thank you for agreeing to take up your appointments. This is a difficult task that you have agreed to do. I want to thank our Government for appointing you. I can see ladies and gentlemen with a lot of brevity and courage. These are ladies who can sit from morning to evening. So, I congratulate the Government for that.

Maybe I would request that several more meetings be held. Let them not take too much time. Many thought that being here you would talk about IDPs only. But my joy is that you are trying to talk about all issues that you think the common *mwana nchi* is suffering from. This is with great gratitude from me. I want you to continue with the same spirit. I know that you have said that your job is tough because even as you went to the county of Wajir and Isiolo, you struggled with the Wagalla Massacre issue. We were following keenly as the presentations were going on. You took the responsibility upon yourselves and did what you had set out to do.

Allow me to give a brief history of our country. The founder of the nation, Mzee Jomo Kenyatta when he was sworn in for the very first time at Jamuhuri Stadium he asked Kenyans who were present to forget the past and that we continue building our country, so that we get prosperity. The other thing he asked was a question: “You being Kenyans, if somebody came and asked you for *rungus*, spears and *pangas* and you start fighting among yourselves, would you accept?” A very high thundering voice came from Kenyans in the stadium. They said “No”. He asked that question once again: “If someone came and told you, take up *pangas*, *rungus*, spears, bows and arrows, would you accept?” Kenyans said “No.” It is like Kenyans were taking an oath to say that we, as Kenyans, will live together as one team of Kenyans. He wanted to see every Kenyan visiting any part of this country freely and have freedom to do any business anywhere in this country.

When the second President took leadership he said, “I will follow in the footsteps of the founding father”. Indeed, he followed in the footsteps of the founders. Maybe the last

years someone can say that he erred, but initially, he followed in the footsteps of Mzee Kenyatta properly.

Now when the multi-party system came that is when problems started. Moi said good politics lead to good life, but bad politics lead to bad life. All the things that the two founding fathers had, have now come to haunt us.

All those who thought that the late President Kenyatta was just talking jokingly now they are crying because of poverty. The ones who received his message keenly and worked hard now are the rich people in the country. The ones who thought that Kenyatta was just talking for the sake of it, they are now envying the others. This is where struggling starts and people start fighting. People kill each other; people are burning each other's houses. We, as Kenyans, have learnt a big lesson from the post election violence.

Any Kenyan who has a proper brain should not repeat that mistake ever again. We would want to live together as Kenyans. That is what I said earlier. Let us work together as Kenyans. Let us promote the economy of our country.

Evidence has been given to show that Busia Sugar Factor was taken away by Mumias Sugar Company. They were not compensated as they had hoped. No factory has been built. I was the chief during that time. I am the one who undertook the programme. Many people are suffering. We, the people of Busia as the gatekeepers of Kenya, are not happy. This is because they have been promised many projects which have not been fulfilled to date. If I may mention just a few of the projects, in 1964 one of the companies came from India looking for a place to build a clothing textile factory. As the people of the County of Busia we accepted. We were happy and we gave out the land. We just sat back thinking that this factory would be established. Surprisingly, that factory was taken to Kisumu. It is not called Kicomi Cotton Mills. That factory was supposed to be built here in Busia. Here in Busia we do not have any single industry as large as that one. That land was just left like that. The people who had given out their land took it back. We could not say anything about it. .

In 1987 President Moi visited Busia and publicly announced that a teachers training college will be built in Busia. Everybody clapped their hands. However, up to date, there is no teachers training college in the entire Busia District.

In 2007, President Kibaki our current President came to visit us here in Busia. We were really following up on the issue pertaining to the medical training college. I was the chairman of the District Health Board. We made a follow up in the Ministry headquarters in Nairobi and even in Western Province. We gave out our plea to say that Busia District is one of those districts that was established after independence. The first phase was built and the second phase was supposed to be the District Medical Training College. The money was given out. I do not know whether that money is still coming; nobody knows where it went. We gave out that information when the President came. He went to assess all the other projects and the last one was here in the stadium. He said you people of Busia I agree with you. You have to have a medical training college which can assist our

youth. On that particular day he broke the ground. He also promised that the Government would give out Kshs40 million to start the job. The board did everything. They surveyed the land. They fenced the place. Everything was done. It was written, "Proposed Busia Medical Training College". Up to date, it has not been built. Now the people of Busia are asking: Are we really in Kenya or in Uganda or Tanzania? Youth are asking, do we continue being proud of our Kenya or we just persevere with our Kenya?

Some of our youth could have been admitted for studies at the medical training college to be trained and later get employment. Even if they could not get formal employment after training, they could become self employed. I have already talked about the medical training college and the teachers training college. Our youth could have been admitted to study in these colleges so that they can train to be teachers. A teacher cannot miss a job. At the moment, we have very many jobless youth. They are just at home and they have no jobs. The people of Busia are proud of our Kenya. We are really taking care of the border. The DO is here. As Ms. Muyoti said there is enough security. We are joining hands together with our neighbours although we have been having a little bit of conflict about because they wanted to assault us. If our Government is keen everything will go on well.

If I may talk about security any border district must have problems pertaining to security and Busia is not an exception. We have that problem here. We the residents of Busia County from Amagoro to Bunyala will ensure that our people of Kenya sleep well. They are living well without any problems. This issue that is giving us a lot of problems is the issue of Migingo and Ugingo Islands. The Government has not taken any responsibility regarding the issues of Migingo and Ugingo. People will really get problems. Just the other day the chief inspector of Uganda - and this was reported in *Citizen TV* - he was saying that before they entered Migingo there was an understanding between the two Governments. What kind of agreement is this? Was it a lease agreement or a transfer of Migingo and Ugingo? That is the questions that Kenyans from Busia County are asking. Issues will be very bad. We are the people who will be affected. We will be the casualties of this place. So, our appeal is that the Government should take this issue concerning Migingo and Ugingo seriously.

I remember when Idi Amin come to power he claimed that the border of Uganda and Kenya will move up to Naivasha. The late President Kenyatta said that there is no single part of land of Kenya that will go. Not even a single inch that will go to Uganda and that was enough to make everything to be quiet. He did not say a lot of words.

You have heard what the police officers said when they were trying to wrangle with the borders of Mulaba, Lungusi and Sio Port. The Government took action very fast. In one day, everything was calm. We had the then DC Simon Chacha who was very furious. That day we were in a staff meeting with the chiefs, DOs and DCs and all these issues came up. The DC took the action to close that meeting. He instructed our police. They did their work. They did a very commendable job. I would like to thank the Acting Chair; we have been hearing about you for very many days on the television. The Acting Chair, Tecla Namachanja. It is our appeal that you get another time and come to this County of



Busia. We are happy that you have come. Continue doing your job. As the residents of Busia, we will pray for you for God's blessings to guide you so that you do your work and finish in a good style for the sake of helping Kenyans.

With those few remarks I would say thank you very much.

**Mr. Ababu Karan:** Thank you very much paramount chief for that elaborate message. I would like to make a small correction. We have none other than the chairman to Busia County Council who has been very kind to the Commission. He also surrendered his office to our beloved Commissioners for retreat. Although it is our tradition to have one lady and one gentleman speaking I am kindly requesting you that I give Mr. Charles Wafula, Chairman, Busia County Council a chance to make a remark because this is his place. He is the controller of this chamber.

**Mr. Charles Wafula:** I thank God very much for giving me this opportunity to be here from 1<sup>st</sup> up to today without problems. Secondly, I want to thank all the Kenyans for voting for the new Constitution which has enabled this commission to be where it is today.

I want to thank also the President for enabling the Commissioners to come and listen to the people. You have heard personally all the problems that Kenyan has undergone. It is my prayer that you will take action regarding what you have heard and bring changes among the people. We are politicians. The post election violence in 2008 brought sorrow among us. I believe that this Commission as you have been visiting Kenyans will come up with a solution, so that we will not see a repeat of what happened in 2008 in 2012 again.

I would like to thank the citizens for taking your time to come before this Commission and to give your statements as per your will. With those few remarks, I want to say thank you very much and my God bless. When you go back, please, convey my greetings from the Busia County Council. Thank you very much.

**Mr. Ababu Karan:** Presiding Chair, I now want to call upon the DO 1, Busia District, Mr. Maingi to give a few remarks on behalf of the provincial administration.

**Mr. J.M. Maingi:** I want to take this opportunity to say sorry on behalf of the DC who could not be with you here today. He is in Nairobi for further studies, but it is my belief that we have been able to fill the gap that he left here since the day you came because there has been a team on our side which has always been there to make sure that your programmes go smoothly.

I also want to say that I am sorry I have not managed to join you in all these hearings because if I remain here along you will know it is just from the boundary. Thank you very much for inviting us today. As you know the county has seven districts now, but we are at the centre of the district. So, I want to say thank you very much on behalf of other districts from Teso North and also from Bunyala.

I want to say that when you look at the objectives of the TJRC it is to bring truth, justice and reconciliation. The work of the Provincial Administration is to sit here with the citizens and to make sure that people are living in peace and going on with their daily business.

I remember in 2008 when we had post election violence in this area I would like to thank the leaders who are also here from the women side, retired paramount chief from the men's section, politicians and also the youth and the Press who are here. We know very well that Busia is a cosmopolitan town and it is also a transit town. When you come here you will get that there are people from all tribes are here working and doing their businesses. We have also managed to use the resources we have here on the ground. I think you have personally seen us because you have been here since then.

If you are not informed that we had some problems you cannot know exactly what we want. We thank you very much for support we have got and also the co-operation we have received from the citizens. They have also accepted that they will not repeat what happened in 2008. We intend to progress.

We have security here. A lot of businesses have been set up here. We have banks here. There is money. Business is doing well and there is security.

We know your work is to listen to our problems since we got independence for the historical injustices that had been here. I thank all people who expressed their feelings. I believe that from today that burden will have lifted from us so that the Commission will go out and give us their recommendations. I would also like to ask the citizens that we will be rejuvenated in our lives knowing that our Government takes care of all the problems that we have had. It is now in safe hands and we believe that you will take the message from here.

On behalf of the citizens of this area, I want to say, may you prosper and succeed in what you are doing as you continue. May God bless Kenya. Thank you very much.

**Mr. Ababu Karan:** Presiding Chair, after those kind remarks from our honoured guests. I want to take this opportunity to kindly invite you to make concluding remarks as you declare this sitting officially closed. Please, proceed.

**The Acting Chair** (Commissioner Namachanja): Residents of Busia, how are you? I want to thank you all for having joined us today at Busia County Council for the Truth, Justice and Reconciliation public hearings that started on 1<sup>st</sup> July, 2011 and which we are concluding today. Without the public's presence the Commission's hearings cannot pass to be public hearings. So, thank you so much for coming, participating and for sitting with us for long hours. On behalf of my fellow commissioners, I would like to recognize the District Officer 1, Busia District, Mr. J.M. Maingi and the representatives from the civil society and the local community for the support that you have accorded this Commission.

From the time we started statement-taking up to now, you will recall that your engagement with the Commission comes through statement –taking in which you recorded the statements concerning gross human rights violations and historical injustices that you suffered. The Commission then selected case representatives of the region and provided you with a platform to tell your truth publicly, bringing it to the attention of the whole country. The Commission has thanked the 19 witnesses who have come forward and spoke their truth on a range of violations including land, lack of --- undisputed boundary demarcation, internally displaced people, discrimination against women and children, serious injuries suffered during the 2008 post election violence, administrative injustices, wrongful detention and sexual violations.

We are struck by how poverty increases people’s vulnerability to abuses of human rights at the same time. we are also encouraged by the number of witnesses who have courageously come forward to testify before the Commission and are willing to move forward in healing and reconciliation.

Over 40 women attended the women’s hearing at the Country Hotel on 4<sup>th</sup> July, 2011. We would like to thank them too for coming to testify before this Commission. In acknowledgement of the witnesses determination and diligence I will, on behalf of the Commission now publically recognize those who have done so by mentioning their names. Before this Commission from the time we started the hearings we have had Florence Odunga Oprong, Mary Emadao, John Kelly Okila, Daniel Mitita, Fredrick Wandera, Peter Ogola, William Ojiambo Odindo, Erick Emereka, Desterio Opolong, Augustine Mulaa. We also had Monica Mung’ala and Erick Makokha, Gladys Lihondo, Robert Matela, Joseph ole Kete, Okodoi Maskini, Marsian Nyabola, Yorami Etiang Omwene and Charles Adongosi. Those are the relatives of the late Titus Adongosi.

We also had James Obaha and Ronald Juma Buteta. I commend especially women who have come forward and narrated their experiences bravely. I would like to assure you that your contribution to ensuring we do not suffer these violations any more is very useful to the Commission. I would like to especially mention Gaudencia who spoke at the women’s hearings. Who despite bearing marks of the brutal act of the post election violence speaks passionately about forgiveness and reconciliation. We salute her and all the witnesses. If this woman is in this room since I was not there, could she just stand so that we affirm her?

*(Gaudencia stood up in her place)*

Thank you, Gaudencia, for your courage. You did not just speak on your behalf but you spoke on behalf of other women who maybe in your position would have shied away. Your spirit of reconciliation let it move among all other victims of such violations.

We recognize the urgency of some of the cases presented and we are of the opinion that some of the issues raised can be addressed before the Commission as it compiles its recommendations. We shall liaise with the Government agencies and other Ministries to address these cases and alleviate the suffering of those affected. The TJRC is a truth

seeking institution and it is the platform through which historical injustices are aired, heard and recorded nationwide to facilitate justice, national reconciliation, healing the restoration of dignity and peace.

Since the TJRC is about restorative and not retributive justice, named persons are also invited to give their side of their stories which guides the Commission's decision to award reparations and recommend prosecution or amnesty for non-gross human rights violations. We know that healing is a process, not an event. That which has begun here will continue long after the commission's mandate is over.

The final goal of this process from the individual to community and national level is acceptance of our diversity, its challenges and complexities of the issues which is crucial for the survival of Kenya as a nation.

After Busia, TJRC continues in western region hearings. From here we move to Bungoma on 8<sup>th</sup> July after which we will start hearing in Nyanza region starting with Kisumu on 14<sup>th</sup> July, followed by Kuria and Kisii. We trust that even as the rest of the country has followed the public hearings in Busia that you shall also follow the public hearings as we move to other regions in this area and the entire country. The Commission will compile the final report on your truth and the truth of other Kenyans based on what we have heard. Thereafter, we shall make recommendations to prevent recurrence of such violations.

The TJRC will present the report to the President but more importantly the report will be made public and widely circulated. The Commission will also create a mechanism to ensure that its recommendations are implemented. Your contributions therefore, are not in vain. Those of you who could not testify but recorded statements with us rest assured that your truth will go into the final record for posterity. Thank you very much and may God bless you.

**Mr. Karan:** Kindly allow me to call upon Pastor Peter Jowi to give us a word of prayers.

*(Closing Prayer)*

*(The Commission adjourned)*